



MAYOR AND COUNCIL AGENDA

NO. 9

DEPT.: Legal /

DATE: July 8, 2004

ACTION: Public Hearing on zoning text amendment application TXT2004-00210 to amend the provisions pertaining to signs by amending Sections 25-1, 25-4 and Sections 25-456 through 25-473 of the Zoning Ordinance to confirm, clarify, and expand the opportunities for noncommercial speech through signage; to provide and amend the standards for erection, maintenance, and removal of signs; to confirm current administrative practice in administering the provisions of the sign regulations; to amend the provisions pertaining to the application for sign permits, issuance of sign permits, and appeals; to clarify the purpose of the sign provisions; to clarify and amend the provisions pertaining to election signs; to add, delete, and amend certain definitions; to clarify certain other provisions of the sign regulations; and to generally amend the provisions pertaining to signs; and by adding a new Division 5 to Article II pertaining to the Sign Review Board.

ACTION STATUS:

FOR THE MEETING OF: 7/12/04

INTRODUCED

PUB. HEARING 7/12/04

INSTRUCTIONS

APPROVED

EFFECTIVE

ROCKVILLE CITY CODE,

CHAPTER 25

SECTION

☐ CONSENT AGENDA

RECOMMENDATION: Hold public hearing on text amendment application.

IMPACT: ☐ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

BACKGROUND: The constitutionality of the sign provisions of the City's zoning ordinance has been challenged by an outdoor advertising company that was denied permits to erect within the City a number of large, off-site message signs commonly referred to as billboards. The lawsuit filed in Federal Court alleges that the sign provisions are impermissibly content based, that they give preference to commercial speech over non-commercial speech, and that they constitute a prior restraint on speech in that they fail to provide time frames in which officials are required to act on sign permit applications and appeals from permit denials. The lawsuit has been dismissed on the grounds that the billboard company lacked standing to bring the lawsuit (that dismissal is on appeal before the Fourth Circuit Court of Appeals).

The City Attorney's office has determined that the lawsuit is without merit in that the City has interpreted and enforced the sign regulations of the Zoning Ordinance in a constitutional manner. In particular, (a) the City has interpreted the sign ordinance to allow the usage of allowable sign area for any message, commercial or noncommercial, so long as the sign otherwise complies with the sign regulations; (b) the City's practice is to act promptly on all sign permits. In addition, the Sign Review Board and the Board of Appeals act in a timely and reasonable manner to hear and decide appeals and applications pertaining to signs; and (c)

The sign regulations reference signs based upon their function (identification signs, grand opening signs, directional signs, real estate signs, etc.) and in no way evaluates speech or the speaker or discriminate on the basis of the viewpoint of the speaker.

On May 24, 2004, the Mayor and Council authorized the filing of text amendment application TXT2004-00210 on its behalf. The purpose of the text amendment application is to preclude further frivolous challenges to the ordinance alleging an unconstitutional restraint on free speech by amending and modifying the sign provisions to codify current practices pertaining to the interpretation and enforcement of the sign regulations, to make clear that the regulations do not unconstitutionally restrain or restrict speech, and to make clear that it is the City's intent to provide ample and constitutionally adequate opportunities to engage in commercial and noncommercial speech while protecting the community against the deleterious effects of unregulated signage. The text amendment application also takes the opportunity to make certain other amendments to the sign regulations. Subsequent to the filing of the initial text amendment application, an errata sheet was filed amending the application.

The proposed text amendment is not designed to address any perceived need of the business community for expanded commercial signage opportunities. The issue of additional commercial signage is a complex and controversial one, and, if deemed appropriate, should be addressed by a separate text amendment.

A full discussion of the proposed text amendment is contained in the Staff Report to the Planning Commission. In summary, the proposed text amendment:

- Establishes time frames for acting on applications for sign permits and appeals from denials.
- Clarifies the requirements for a sign permit application and the standards for issuing a sign permit.
- Confirms and clarifies that the sign provisions do not constitute an impermissible content-based regulation of speech by eliminating, to the extent practicable, references to sign function.
- Codifies and confirms current administrative practice/interpretation that affords opportunities for noncommercial speech by
 - Specifically allowing noncommercial messages where commercial messages are otherwise permitted.
 - Specifically providing that prohibited off-site signs do not include signs with noncommercial messages.
 - Providing for additional temporary signage for noncommercial speech.
 - Retaining the current exemption for interior signs and window signs not exceeding 20% of the window area.
- Codifies and confirms current administrative practice/interpretation by specifically allowing
 - Yard sale signs
 - Decorative flags and rigid "banners" on lampposts (usually seasonal or holiday related)
 - Signs located on recreational facilities not visible to the traveling public
- Codifies and confirms current administrative practice/interpretation allowing noncommercial speech on residential property by specifically allowing noncommercial temporary signs not to exceed an aggregate of 12 square feet at any one time. There is no duration limit or permit requirement for such signs. Noncommercial temporary signs on residential property may be used for
 - Yard sale signs (defined as being noncommercial)
 - Election signs
 - Expressing a political or issue viewpoint
 - Expressing any other noncommercial message

- Expands opportunities for noncommercial speech on non-residential property by specifically allowing noncommercial temporary signs not to exceed an aggregate of 32 square feet at any one time. Such signs may not be erected on nonresidential properties for more than 60 consecutive days or for a total of 60 days during any calendar year. Such signs may be used for
 - Election signs
 - Expressing political or issue viewpoint
 - Expressing any other noncommercial message
- Expands opportunities to advocate candidates and issues to be voted on at an election in recognition of the high level of protection under the First Amendment generally afforded to election signs.
 - Changes the term “political sign” to “election sign” and modifies the definition so as to more clearly distinguish between signs that advocate a candidate or issue to be voted on at an election from other expressions of political viewpoint.
 - Eliminates the current restrictions on erecting such signs prior to 30 days before an election, consistent with the growing trend of municipal governments (including Montgomery County) to place no restrictions on how early such signs may be erected. Such signs, however, are still subject to height and area requirements and must be removed within 7 days after the election (except where a general election follows a primary election within 75 days)
 - Allows election signs to be erected as temporary noncommercial signs, subject to the height, area, and duration requirements of such signs in the respective zone.
 - Increases the current aggregate election signage allowed (as noncommercial temporary signs) in residential zones from 9 square feet to 12 square feet. Retains the current aggregate election signage allowed (as noncommercial temporary signs) in other zones at 32 square feet.
- Confirms and codifies the current administrative practice/interpretation pertaining to signs on public property or within the public right-of-way
 - Retains the current prohibition against placing signs on public property or within the public right-of-way except as directed by the City Manager.
 - Adds a new provision describing those signs that the City Manager may direct or authorize to be placed on public property or within the public right-of-way, consistent with current practice
 - Signs that comply with the provisions of the Manual on Uniform Traffic Control Devices or otherwise provide directional or other noncommercial public service information.
 - Signs pertaining to a governmental or public purpose.
 - Signs pertaining to the use, maintenance, and/or operation of public property or the public right-of-way and/or pertaining to any events or activities lawfully conducted on the property or right-of-way.
 - Signs pertaining to the closure or partial closure of a road or other public right-of-way.
- Clarifies and expands the public purposes of the sign provisions.
- Amends, adds, and deletes various definitions to clarify and support the purpose and intent of the sign provisions.
- Amends and clarifies certain other provisions of the sign regulations.
- Amends the severability provision of the zoning ordinance to make clear that if any provision of the sign regulations is found to be unconstitutional, it is the intent of the Mayor and Council that the remaining regulations remain in full force and effect.
- Continues to protect the community from the blight of billboards by adding a definition of off-premises

signs. (Such definition excludes noncommercial speech).

- Continues to protect the community from the clutter, distraction, and other adverse effects of unregulated signs by
 - Establishing specific construction and maintenance standards for signs.
 - Defining and providing for the removal of abandoned signs.
 - Providing for the removal of signs pertaining to a particular time, event, activity, or purpose within 7 days of the conclusion of the time, event or purpose to which it pertains.
 - Retaining, and clarifying where appropriate, the existing size, height, location, construction, design, illumination, and permitting requirements for signs.
- Continues to allow the signage currently permitted. The proposed text amendment allows for the erection of the same signs currently allowed, with the following limited exceptions:
 - Signs showing time, date, and weather are no longer permitted as an exception to the prohibition of flashing signs. It is believed that with the advent of cell phones and PDAs this exception is no longer needed to provide such information.
 - The provision permitting changeable messages for shopping malls or arcades having at least one hundred (100,000) square feet of gross floor area and having at least ten (10) separate uses not visible from adjoining streets has been deleted, as there are no such uses in the City.
 - Off-site identification signs are no longer permitted for subdivisions to be consistent with the prohibition of other off-premises signs. Most of construction in the City is in-fill construction. Where subdivisions are constructed available on-site signage is deemed to be sufficient.
- Prohibits signs “with words, scenes, or graphics of an obscene, indecent, or prurient character which offend public morals or decency.

RECOMMENDATION OF THE PLANNING COMMISSION:

The Planning Commission considered the proposed text amendment at its meeting of June 9, 2004. Much of the discussion centered on the proposed provisions for noncommercial temporary signs in general, and election signs, in particular. Some commissioners expressed a preference for some time limitations on such signs. Commissioner Holtz moved, seconded by Commissioner Ostell to recommend approval to the Mayor and Council of Text Amendment Application TXT2004-00210. The motion passed on a vote of 5-1 with Commissioner Britton voting nay. Commissioner Britton stated that he is not against the text amendment, but the motion did not have the right caveat in it pertaining to time limits on election signs.

OTHER COMMENTS:

The Board of Appeals has by resolution and in a memorandum to the Planning Commission expressed its approval of the proposed time constraints. Several members of the Rockville Board of Elections Supervisors expressed concern over the lack of any time limitation for election signs, as did at least one member of the Board of Appeals and one member of the Sign Review Board.

Except for the comments pertaining to temporary and election signs, staff has not received any negative comments about the proposed text amendment. However, a member of the Rockville Chamber of Commerce suggested that the City designate some space in the public right of way visible to the motoring public where non-governmental community events can be advertised.

PREPARED BY:

Sondra Harans Block
Sondra Harans Block, Assistant City Attorney

Date: *July 8, 2004*

LIST OF ATTACHMENTS:

Proposed text amendment with errata sheet

Staff Report to the Planning Commission

Memorandum from the Planning Commission to the Mayor and Council

Memorandum from the Board of Appeals to the Planning Commission

Resolution of the Board of Appeals.

Text Amendment TXT2004-00210

Proposed Amendments to Sign Provisions of the Zoning and Planning Ordinance



City of Rockville, Maryland

Amend Art. I. In General, Section 25-1. Definitions as follows:

Section 25-1. Definition

The following words, terms and phrases, when used in this chapter, shall have the meanings and ascribed to them in this section:

* * *

Banner means any sign or string of one or more signs, usually made of cloth or other lightweight material, which is used to attract attention, whether or not imprinted with words or characters, including but not limited to balloons and pennants.

Building, community means * * *

* * *

Cemetery means * * *

Chief of Inspection Services means the individual holding the position Chief of Inspection Services within the City's Department of Community Planning and Development Services or such individual's designee.

* * *

Copy means the linguistic or graphic content of a sign.

Firearms means * * *

Flag means any fabric containing distinctive colors, patterns, or symbols, used as an ornamental flag or as a symbol of a government, political subdivision, or other entity.

Flag, ornamental means any fabric or similar material designed to be flown as a flag and containing patterns, drawings or symbols used for decorative purposes and noncommercial in nature.

* * *

Glare means a direct or reflected light source creating a harsh brilliance that causes the observer to squint, shield or avert the eyes.

* * *

Pennant means any series of small flag-like or streamer-like pieces of cloth, plastic, paper or similar material attached in a row to any staff, cord, building, or at only one or two edges, the remainder hanging loosely.

* * *

Sign means any structure, part thereof, or device attached thereto or painted or represented thereon or any material or thing, illuminated or otherwise, which displays or includes any numeral, letter, words, model, banner, pennant, emblem, insignia, device, trademark, logo, graphic, or other representation used [as, or in the nature of, an announcement, advertisement, direction, or designation of any person firm group, organization, place, commodity, product, service, business, profession, enterprise, or industry which is located upon any land, or any building, in or upon a window, or indoors in such a manner as to attract attention from outside the building] in any manner whatsoever, so as to convey information or attract attention. Sign does not include the flag, emblem, insignia, poster or other display of a nation, state, or political subdivision.

Sign, abandoned means a sign which identifies a business, lessor, service, owner, product, or activity that is no longer located on the premises, or a sign for which no legal owner can be found. "Abandoned sign" also includes any permanent sign not properly maintained or operated for a period of six months or longer, any temporary sign that has deteriorated, and any sign structure which no longer supports the sign for which it was designed. Permanent signs applicable to a business temporarily suspended because of a change of ownership or management of such business shall not be deemed abandoned unless the property, building, or space remains vacant for a period of six (6) months or more.

[*Sign, advertising* means a building sign which includes any copy and/or graphics relating to any service, product, person, business, place, activity or organization in addition to simple identification, excluding directional information.]

Sign, building means any sign mounted on a wall, window, marquee, fascia, mansard, canopy, or parapet of a building.

Sign, commercial means a sign that references, or directs the attention of the public to, a business, commodity, service, sale or sales event, or other commercial activity. Commercial sign does not include political signs, temporary signs pertaining to fundraising activities for non-profit organizations, or [limited duration] temporary yard sale signs.

Sign, directional means a noncommercial sign that [does not contain advertising information, but includes] contains only [pertinent] information[, including] assisting the flow of vehicular or pedestrian traffic or control of parking.

Sign, election means any sign that advocates the candidacy of any person for an elected position or an issue that is to be voted on in a Federal, State, County, or City election process. Election sign does not include a campaign headquarters sign.

* * *

[*Sign, identification* means a sign which carries only the name and/or logo or trademark of one (1) business, place, organization, building or person it identifies.]

Sign, monument means a freestanding sign mounted directly and permanently to the ground without a separate supporting structure.

Sign, noncommercial means a sign that is not a commercial sign.

Sign, non-conforming means any sign that does not conform to the provisions of this Chapter, but was placed or constructed in accordance with City ordinances existing at the time of its placement or construction.

Sign, occupant identification means a sign indicating the name and/or profession or address of a person or persons or entity residing on the premises or legally occupying the premises.

Sign, off-premises means a sign that directs attention to a building, product, business, organization, service, entertainment, commodity, accommodations, activity, or institution that is not located, conducted, sold, rented, produced, manufactured and/or furnished on the same lot as the sign. Off-premises signs include, but are not limited to, signs commonly referred to as "billboards." Off-premises sign does not include election signs or noncommercial signs that comply with all other requirements of this chapter.

Sign, permanent means a sign that is constructed in a manner and of materials that will withstand long-term display and is intended to be displayed for an indefinite period of time.

[*Sign, political* means any sign that advocates the candidacy of any person for Federal, State County or City elected position, whether primary or general election.]

Sign, real estate means a temporary sign advertising the sale, rental, or lease of the real estate upon which the sign is located.

Sign, roof means a sign erected upon or above a roof or parapet of a building or structure.

Sign, safety control means a warning, control, OSHA, or other sign required for public safety.

Sign, temporary means a non-permanent sign constructed of durable, semi-durable, or non-durable material not intended to be displayed for an indefinite period.

Sign, traffic control device means any sign located on public or private property that is used as a traffic control device and that is described and identified in the Manual on Uniform Traffic Control Devices (MUTCD) and approved by the Federal Highway Administrator as the national standard. A traffic control device sign includes those signs

that are classified and defined by their function as regulatory signs (that give notice of traffic laws or regulations), warning signs (that give notice of a situation that might not readily be apparent), and guide signs (that show route designations, directions, distances, services, points of interest, and other geographical, recreational, or cultural information.)

Sign, yard sale means any onsite temporary sign pertaining to the sale of personal property in, at, or upon any residential property or residentially-zoned property, whether such sale be designated as a yard sale, garage sale, lawn sale, home sale, attic sale, moving, sale rummage sale, or any similar designation.

Special exception means * * *

Sec. 25-4. Severability.

(a) All provisions of this chapter are severable. All provisions of any ordinance hereinafter enacted [which] that [amends or adds] amend or add any provision to this chapter are severable unless such ordinance specifically provides that its provisions are not severable. The finding by a court that some provision of this chapter or any amendment thereof is unconstitutional and void does not affect the validity of the remaining portions of this chapter unless the court finds that the remaining valid provisions alone are incomplete and incapable of being executed in accordance with the legislative intent of the City.

(b) Without diminishing or limiting in any way the foregoing declaration of severability, it is the express intent of this section that if any provision of Article XI of this chapter pertaining to signs, including but not limited to provisions pertaining to sign permits, is declared to be unconstitutional and void, such declaration of unconstitutionality shall not affect any other provision of Article XI, including but not limited to the prohibition of certain signs or the requirements pertaining to the size, height, location, numbers, illumination, maintenance, construction, and removal of signs. In particular, and without limitation, in the event any provision of Article XI is declared invalid as applied to noncommercial signs, Article XI, or any surviving portions thereof, shall remain in full force and effect as applied to commercial signs.

Amend Art. II. Administration as follows:

Add a new Division 5. entitled "Sign Review Board."

Sec. 25-81. Sign Review Board.

(a) Creation and composition. There is hereby created and established a board to be called the Sign Review Board, which shall consist of three (3) members and (1) alternate

who shall be appointed by the Mayor, subject to the confirmation of the Council, for three (3) year terms. An appointment to fill a vacancy occurring before the expiration of a term shall be for the remainder of the unexpired term. The Chairperson shall be selected by the Mayor, subject to the confirmation of the Council.

(b) Qualifications of members. There will be three (3) members and one (1) alternate member designated to the Sign Review Board. Two (2) members shall be businesspersons operating or associated with businesses in the City. Two (2) members shall be residents of the City who have no vested interest in either any business in the City or in the sign industry. The alternate member will first be a resident of the City; thereafter the alternate position will rotate between a resident appointee and a business appointee.

(c) Powers and duties. The Sign Review Board shall exercise the following powers and duties:

(1) Meetings. The Board must meet at least once every six weeks at the call of the chairperson, unless there is no business before it. In exercising its powers and duties, not less than two (2) members of the Sign Review Board shall constitute a quorum. The Board shall keep minutes of its proceedings and meetings.

(2) The Board shall

a. Review, at the request of an applicant or the City, an application for a sign permit and make a determination as whether or not the sign as proposed complies with the requirements and purposes of this chapter.

b. Hear and decide applications for modifications from the sign regulations in Article XI of this Chapter. The Board may grant modifications from provisions of the sign regulations, with such terms and conditions it deems appropriate, upon the following findings:

(i) That the strict application of the sign regulations would result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property or owner of such sign; and

(ii) That the modification is the minimum reasonably necessary to overcome any exceptional conditions; and

(iii) That the modification can be granted without substantial impairment of the intent, purpose and integrity of the regulations and of this chapter.

c. This section shall not permit the Sign Review Board to grant a modification allowing any sign prohibited under section 25-461.

(d) Applications. A completed application for a sign review and/or for a modification from the sign regulations contained in Article XI shall be submitted in writing to the Sign Review Board at least ten (10) calendar days prior to the meeting at which it is to be considered. Each application shall be submitted on forms provided therefor by the Sign Review Board and be accompanied by such fee as is determined by resolution of the Council. The applicant shall furnish as part of the application such information as may reasonably be required by the Sign Review Board.

(e) Posting of sign. Within three (3) business days after the filing of an application for a modification from the sign regulations, the applicant shall erect and maintain a sign on the premises at a location visible to the public or as directed by the Chief of Inspections Services, stating the purpose of the application and the date, time and place of the meeting. Such sign shall be prepared and furnished to the applicant within two (2) business days after the filing of the application. Such sign shall be maintained at all times by the applicant until final action by the Sign Review Board. It shall be unlawful for any person to remove or tamper with any sign erected under this section during the period it is required to be maintained.

(f) A hearing shall be held on a timely filed application at the Board's next scheduled meeting, provided that a different hearing date may be set with the consent of the party filing the application.

(g) Decisions.

(1) All actions or decisions of the Board shall be in written form and shall be shall be made within ten (10) business days from the completion of the hearing on the application.

(2) Any decision denying a sign review application or a sign modification application shall set forth the reasons for the denial.

(3) A decision granting a modification from the sign requirements may contain such terms and conditions deemed necessary by the Board to satisfy the required findings.

(h) Appeal.

(1) Any decision by the Sign Review Board, or the failure of the Sign Review Board to act within the time frames set forth herein, may be appealed by any aggrieved party to the Board of Appeals within 10 business days after the decision is rendered.

(2) Whenever any such appeal is taken, a copy thereof shall be served on the Sign Review Board by the City Clerk, and the Sign Review Board shall promptly give notice of the appeal to all parties to the proceedings before it and shall, within five (5) business days after the filing of the appeal, file with the Board of Appeals the originals or certified copies of all papers and evidence presented to the Sign Review Board in the proceedings

before it, together with a copy of its decision and findings, all of which shall be considered as part of the record before the Board of Appeals.

(3) All such appeals shall be *de novo* and shall be considered by the Board of Appeals in the same manner as appeals from determinations of administrative officials as provided for and in accordance with State law. The Board of Appeals shall hold a hearing on such appeals no sooner than fifteen (15) calendar days from the date of the filing of the appeal and no later than forty-five (45) calendar days from the date of the filing on the appeal, provided that a different hearing date may be set with the consent of the party filing the appeal.

(4) The Board of Appeals shall have the power, after notice and hearing, to either affirm the decision of the Sign Review Board or, if it finds such decision is contrary to or inconsistent with the requirements, purposes and intent of this chapter, to reverse, or to remand the case to the Sign Review Board with a written opinion setting forth the reasons for its actions. The Board of Appeals shall render its written opinion within ten (10) business days following the completion of the hearing, provided that the time for rendering a decision may be extended with the consent of the party filing the appeal.

(5) The failure of the Board of Appeals to conduct the hearing or render a written decision within the time frames set forth herein in the same manner as other appeals from the decisions of the Board of Appeals are taken.

Repeal and re-enact in its entirety Article XI. Entitled "Signs" to read as follows:

ARTICLE XI. SIGNS

Division 1. General

Sec. 25-456. Legislative findings; [Purpose] purpose and intent.

[In addition to the purposes set forth in section 25-2, the purpose of the requirements set forth in this article which regulate the location, size, placement and certain features of signs is to enable the public to locate goods, services and facilities without difficulty, danger or confusion, to prevent hazards to life and property and to assure the continued attractiveness of the City and the protection of property values.]

(a) The Council finds that signs provide an important medium through which individuals and entities may convey a variety of commercial and noncommercial messages. However, left completely unregulated, signs can become a threat to public safety as a hazard to property, persons, and the motoring public, and a detriment to property values and the overall public welfare as an aesthetic nuisance.

(b) In addition to the purposes set forth in section 25-2 of this chapter, the purpose of the requirements of this article regulating the construction, erection, location, placement, type, use, design, features, size, number, maintenance, and removal of signs within the City of Rockville is to enable the public to locate goods, services, facilities, and geographic areas without difficulty, danger, or confusion; to reduce traffic and pedestrian hazards and prevent interference with the effectiveness of traffic regulation; to promote the compatibility of signs with the surrounding land uses; to protect the public investment in the roadways in the City; to promote and preserve the economic well-being and vitality of the community; to enhance and improve the environment of the City and protect property values by preventing visual clutter and blight; and to provide effective opportunities for the expression of commercial and noncommercial communication while protecting the public and the community against adverse affects from the unrestricted proliferation of signs.

Sec. 25-457. Exemptions.

(a) This article does not apply to:

(1) Any sign erected inside of any building and not visible from the exterior thereof;

(2) Any sign erected inside of any building and visible outside of such building through a window provided such sign is set back at least ten (10) feet from the nearest window;

(3) Signs inside a building within ten (10) feet of any window not exceeding twenty (20) percent of the area of a window unit;

(4) [Any sign erected on private property in accordance with the Manual on *Uniform Traffic Control Devices* adopted by the City and the State Highway Administration;] Traffic control device signs.

(5) Any sign erected by or at the direction of any governmental body having jurisdiction over the property or right-of-way on which the sign is located;

(6) Any sign [erected by any person as] or portion thereof required to be posted or displayed by this chapter or other applicable Federal, State, or local law or regulation;

(7) [Private flags] One private flag when displayed with the flags of the United States and the State or political subdivision, provided such private flag shall not be larger than the other flags displayed.

(8) Signs located on public or private recreational facilities on parcels of five acres or more, provided that such signs are not visible to the traveling public.

(9) Any ornamental flag or stationary structure, device, material or thing of a noncommercial decorative nature extending from a wall or pole located on residential property or around parking or pedestrian areas in the interior of non-residential property and not designed to attract the attention of the traveling public.

(10) Numerals not exceeding eighteen (18) inches in height identifying the address of a dwelling unit or building.

Sec. 25-458. [Sign Review Board.] Construction, design and maintenance of signs.

[(a) *Creation and composition.* There is hereby created and established a board to be called the Sign Review Board, which shall consist of three (3) members and one (1) alternate who shall be appointed by the Mayor, subject to the confirmation of the Council, for three (3) year terms. An appointment to fill a vacancy occurring before the expiration of a term shall be for the remainder of the unexpired term. The Chairperson shall be selected by the Mayor, subject to the confirmation of the Council.

(b) *Qualifications of members.* There will be three (3) members and one (1) alternate designated to the Sign Review Board. Two (2) members shall be business persons operating or associated with businesses in the City. Two (2) members shall be residents of the City who have no vested interest in either any business in the City or in the sign industry. The alternate member of the Board will first be a resident of the City; in future years, the alternate position will rotate between a resident appointee and a business appointee.

(c) *Powers and duties.* The Sign Review Board is authorized, at the request of an applicant, or the City, to review any application for a sign permit and to make a determination as whether or not the sign as proposed complies with the requirements and purposes of this chapter. The Sign Review Board may grant modifications from sign regulations in this article, where the strict application of the sign regulations would result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property or owner of such sign; without substantial impairment of the intent, purpose and integrity of the regulations and of this article. This provision shall not permit the Sign Review Board to grant a modification allowing any sign prohibited under section 25-461, except that the Sign Review Board may grant a modification to freestanding signs as described in section 25-461, paragraph (b)(5). In exercising its powers and duties, not less than two (2) members of the Sign Review Board shall constitute a quorum. The Board shall keep minutes of its proceedings and meetings. All actions or decisions of the Board shall be in written form.

(d) *Sign review application.* An application shall be submitted in writing to the Sign Review Board at least ten (10) days prior to the meeting at which it is to be considered. Each application shall be submitted on forms provided therefor by the Sign Review Board and be accompanied by such fee as is determined by resolution of the Council. The applicant shall furnish as part of the application such information as may reasonably be required by the Sign Review Board.

(e) *Posting of sign.* Within three (3) business days after the filing of an application for a modification, the applicant shall erect and maintain a sign at the location of the proposed sign, stating the purpose of the application and the date, time and place of the meeting. Such sign shall be prepared and furnished to the applicant within two (2) business days after the filing of the petition. Such sign shall be maintained at all times by the applicant until final action by the Sign Review Board. It shall be unlawful for any person to remove or tamper with any sign erected under this section during the period it is required to be maintained.

(f) *Appeals from decisions.* Any decision by the Sign Review Board may, within ten (10) days after the decision is rendered, be appealed by an interested party to the Board of Appeals, which shall have the power, after notice and hearing, to either affirm the decision of the Sign Review Board or, if it finds such decision is contrary to or inconsistent with the requirements, purposes and intent of this chapter, to reverse, or to remand the case to the Sign Review Board with a written opinion setting forth the reasons for its actions. All such appeals shall be *de novo* and shall be considered by the Board of Appeals in the same manner as appeals from determinations of administrative officials as provided for and in accordance with State law. Whenever any such appeal is taken, a copy thereof shall be served on the Sign Review Board by the City Clerk, and the Sign Review Board shall promptly give notice of the appeal to all parties to the proceedings before it and shall, within five (5) days after the filing of the appeal, file with the Board of Appeals the originals or certified copies of all papers and evidence presented to the Sign Review Board in the proceedings before it, together with a copy of its decision and findings, all of which shall be considered as part of the record before the Board of Appeals.]

(a) Permanent signs must be installed in accordance with the following:

(1) Such signs must be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure. Such signs attached to masonry, concrete or steel shall be safely and securely fastened by means of metal anchors, bolts or approved expansion screws of sufficient size and anchorage to safely support the loads applied. Where wood anchors or supports are embedded in the soil, the wood shall be pressure treated with an approved preservative.

(2) Permanent signs shall be designed and constructed to withstand wind pressure as provided for in Chapter 16 of the 2000 International Building Code.

(3) Illumination. When illumination of a sign is permitted it must satisfy the following requirements:

a. A sign shall not be illuminated by other than electrical means, and electrical devices and wiring shall be installed in accordance with the requirements of the National Electrical Code, or such other code adopted as the electrical code for the City.

b. Sign illumination must use an enclosed lamp design or indirect lighting from a shielded source in a manner that prevents glare from beyond the property line. No sign shall be illuminated in such a manner as to cause traffic interference.

(b) Temporary signs. A temporary sign must

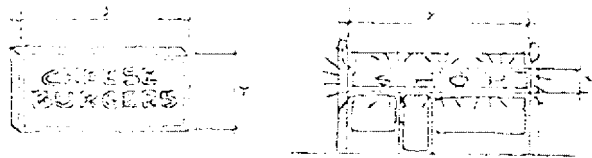
- (1) not be illuminated in any manner.
- (2) not be constructed in a manner that requires a building or electrical permit.
- (3) not have changeable copy.
- (4) be securely anchored to the structure or land in which it is located.

(c) Maintenance. All signs and sign support structures, together with their supports, braces, guys and anchors, shall be maintained in good structural condition, in compliance with all applicable building and electrical codes, and in conformance with this article at all times. The display surfaces of signs shall be kept neatly painted or posted at all times.

Sec. 25-459. Measurement of sign area.

Sign areas shall include the total areas of all permitted signs, except as otherwise provided for herein, and shall be measured as follows:

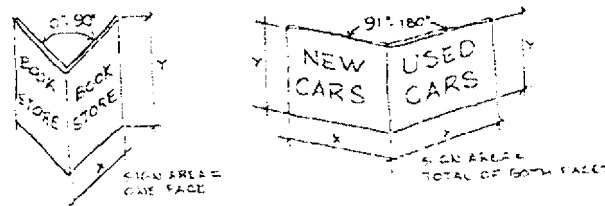
(1) For sign copy mounted or painted on a background panel or area distinctively painted, textured, lighted or constructed as background for the sign copy, sign area is measured as that area contained within the outside dimensions of the background panel or surface.



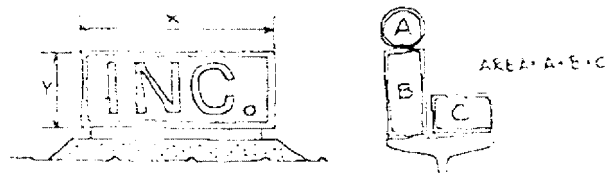
(2) For sign copy mounted as individual letters and/or graphics on an area of a building that has not been painted, textured, lighted or otherwise altered to provide a distinctive background for the sign copy, sign area is measured as the area or the sum of the areas enclosed by the smallest rectangle that will enclose each word and graphic.



(3) For freestanding signs or projecting signs not more than two (2) sign faces shall be allowed [and if]. If the interior angle between the two (2) sign faces is ninety (90) degrees or less, the area of only one (1) face will be the sign area[; if]. If the angle between the two (2) faces is greater than ninety (90) degrees, the sign area will be the sum of the areas of the two (2) faces.

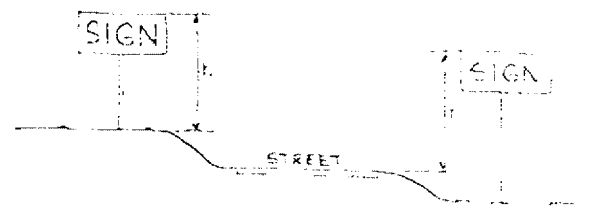


(4) For a freestanding sign, the sign area will be the area that will encompass all components of the sign excluding the supporting structure [which] that does not form part of the sign proper.



Sec. 25-460. Measurement of sign height.

Sign height shall be the distance from the top of the sign structure to the level of the street upon which the sign faces or to the level of the lot on which the sign is erected, whichever is higher.



Sec. 25-461. Only permitted signs lawful; signs specifically prohibited.

(a) No sign shall be erected unless such sign is specifically permitted by this article and complies with all of the requirements of this chapter.

(b) [Prohibited signs include, but are not limited to, the following:] The following signs are specifically prohibited:

(1) Signs [which] that impede the operation of any window, door, fire escape, stairway, ladder, or opening required to provide light, air, ingress or egress for any building or structure;

(2) Signs which, by reason of position, size, shape or color, may interfere with, obstruct the view of, or be confused with any traffic sign, signal or device, or which make use of any word, phrase, symbol or character in such a manner as to interfere with, mislead or confuse traffic;

(3) [Signs which contain the name of a building, product, business, service or institution which is not located on the same lot as the sign, except for temporary signs, permanent subdivision identification signs, and political signs erected in accordance with the requirements of this article.] Off-premises signs.

(4) Freestanding signs [which have] in the shape [in the] or form of any person, animal, vegetable, product or animation of any of the foregoing;

(5) [Freestanding signs which have more than twenty (20) percent of the area consisting of a logo or emblem.] Any sign placed or erected on property without the permission of the property owner.

(6) Signs which move or have any moving part, or which give the illusion of motion;

(7) Signs which utilize blinking, flashing, or fluttering illumination or illumination which varies in color or intensity or which create the appearance or illusion of [wiring] writing or printing [except for signs showing only the date, time and temperature by means of sequentially operated luminaries], including, but not limited to, strobe, rotating beacon, chasing, or zip lights;

(8) Signs erected by any person on any City public property or right-of-way except for signs as may be directed by the City Manager;

(9) Signs erected in such a location as to interfere with pedestrian or vehicular circulation onto or off of the property on which it is located;

(10) Portable signs;

(11) Signs mounted, attached or painted on trailers, boats or motor vehicles when used as additional identification or advertising signs on or near the premises;

(12) Signs with changeable [letters] copy, except as provided for herein;

(13) Signs extending above the roof of any building in excess of one (1) percent of the building height;

(14) Flags, banners, [and] pennants, spinners, ribbon, streamers, balloons, and similar devices, except as [provided for herein] permitted by this article;

(15) Signs projecting more than thirty-six (36) inches from a building wall;

Sec. 25-462. Sign permits; appeals.

(a) [Signs allowed under this article shall not be erected without prior issuance of a sign permit unless expressly exempted herein.] Except as expressly exempted or otherwise provided in this article, a sign permit must be obtained prior to the installation, erection, enlargement, illumination, or substantial alteration of any permanent or temporary sign allowed under this article. The changing of the sign face is a substantial alteration requiring a new sign permit.

(b) Applications shall be submitted to the [Superintendent of the Division of Licenses and Inspection] Chief of Inspection Services.

(c) Each application shall be submitted on forms provided therefor by the [Superintendent of the Division of Licenses and Inspection] Chief of Inspection Services, and be accompanied by such fee as is [determined] established by resolution of the Council. The applicant shall furnish as part of the application [such information as may reasonably be required by the Superintendent.] the following information:

(1) The street address of the property upon which sign is to be located and a plat map of the property showing the proposed location of the sign and identifying any adjacent residential property; and

(2) The aggregate area for all tenant/business signs erected by or on behalf of the applicant and/or the aggregate area for all signs on the premises; and

(3) The name(s) and address(es) of the owner(s) of the premises upon which the subject sign is to be located; and

(4) Consent of the owner, or the owner's agent, granting permission for the placement or maintenance of the sign.

(5) Name, address, phone number and business license number of the sign contractor; and

(6) Plans indicating the location of the sign on the property or building wall, including the road frontage or building elevation; and

(7) Plans indicating the dimensions, height, and shape of the sign, and materials, and mounting details; and

(8) Such other information pertaining to the requirements of this article as may reasonably be required by the Chief of Inspection Services.

(d) [A sign permit shall be issued if the Superintendent of the Division of Licenses and Inspection finds that the sign proposed in the application will not:

(1) Affect adversely the health or safety of persons residing or working in the neighborhood of the proposed sign;

(2) Be detrimental to the public welfare or injurious to property or improvements in the neighborhood;

(3) Constitute a violation of any provision of this code or other applicable law.]

The Chief of Inspection Services must review the application within fifteen (15) working days from the date of submission of the application and required fee and either approve or deny the application or return the application to the applicant if the application is incomplete as follows:

(1) A sign permit must be issued if the Chief of Inspection Services finds that the sign proposed in the application complies with the requirements of this article.

(2) If the permit is denied, the denial must be in writing and must specify the specific section or sections of this article or other applicable law with which the proposed sign(s) is inconsistent.

(3) If the application is returned due to incompleteness, the Chief of Inspection Services must advise the applicant in writing as to the information needed to complete the application.

(4) Failure of the Chief of Inspection Services to take action on an application within the time frame set forth above is appealable to the Sign Review Board in the same manner as an appeal from a denial of a permit.

(e) An applicant may appeal the denial of a sign permit by filing a sign review application with the Sign Review Board within 10 business days of the decision.

(f) No permit for a sign issued hereunder shall be deemed to constitute permission or authorization to maintain an unlawful sign, nor shall any permit issued hereunder constitute a defense in an action to abate an unlawful sign.

Sec. 25-463. [Removal and alteration of nonconforming] Nonconforming signs.

(a) Whenever an existing sign is altered, it shall be modified to bring it into conformance with this chapter.

(b) Whenever any existing business/tenant erects a new or additional sign, all signs on the premises pertaining to that business/tenant shall be modified to bring them into conformance with this chapter.

(c) Any sign lawfully existing immediately prior to the effective date of this chapter, or any application amendment thereof, but which does not conform to the requirements as now constituted or as it may hereafter be amended from time to time, shall be removed within eight (8) years from the date that the sign became nonconforming.

Sec. 25-464. Removal of [prohibited] signs.

(a) Any prohibited sign found on any public property or right-of-way within the City shall be removed by the City Manager or the City Manager's designate [after reasonable attempt to give notice], and held for a period of three (3) working days during which time it may be reclaimed by the owner. If the sign is not claimed within that time frame, it shall be deemed to have been abandoned and may be disposed of by the City Manager in the same manner as trash. Nothing herein shall prohibit the imposition of a fine or initiation of any other enforcement action against any person or entity found to have installed a prohibited sign on any public property or right-of-way within the City.

(b) Any sign unlawfully existing immediately prior to the effective date of this chapter, or any applicable amendment thereof, and which does not conform to the requirements of this article, as now constituted or as it may hereafter be amended from time to time, shall be removed by the owner after notice from the City to do so.

(c) Any sign that pertains to a time, event, activity, or purpose, must be removed within seven (7) days of the conclusion of the time, event, or purpose to which it pertains.

(d) An abandoned sign must be removed by its owner or persons otherwise responsible for the sign, or the owner of the property on which the sign is located, within thirty (30) days from the time the activity ceases and/or the business or owner vacates the premises.

Removal shall consist of the removal of the portion of the sign identifying the business, tenant, entity, service, owner, product, or activity that is no longer located on the premises and temporary replacement face installed where applicable.

Sec. 25-465. Signs permitted for residential uses in all zones.

The following signs are permitted for [detached, semidetached, and multifamily dwelling units] residential uses in all zones.

(1) [Street number, residence identification and home occupation sign; provided] Each dwelling unit may have permanent occupant identification signs, including a single sign for a valid home occupation, child care home, or child care center located on a lot under 20,000 square feet, in accordance with the following:

- a. The total aggregate of all such signs [shall] must not exceed one hundred fifty (150) square inches;
- b. The signs may be a building sign or freestanding;
- c. If freestanding, the signs [shall] must not be illuminated in any manner;
- d. No sign permit is required.

(2) Permanent [identification] entrance signs for residential developments or [recorded] subdivisions [of] containing ten (10) or more [lots for multifamily developments] dwelling units in accordance with the following

- a. One (1) sign not exceeding twenty-four (24) square feet in area with a maximum height of five (5) feet in height located at or near the entrance to the development or subdivision within the boundaries of such development or subdivision;
- b. Final location of such sign must be approved by the City Traffic Engineer to ensure that the sign does not obstruct the visibility of motorists.
- c. Such sign [shall] must be located in a landscaped area of at least two (2) square feet per each square foot of sign area.

(3) Directional signs for [multifamily developments; provided] residential developments or subdivision of any size in accordance with the following:

- a. Such signs [shall] must not exceeding three (3) square feet in area;
- b. If freestanding, such signs [shall] must not exceed six (6) feet in height.

(4) The following temporary signs:

a. [Sale or rent] Real estate signs for individual [property] residential lots or dwelling units subject to the following:

1. One (1) building or freestanding sign per street frontage not exceeding six (6) square feet in area and, if freestanding, not exceeding five (5) feet in height [pertaining only to the land or building upon which displayed], provided that any sign installed within ten (10) feet from the property line must not exceed forty-two (42) inches in height;

2. Such signs [may] must not be illuminated;

3. No sign permit is required;

b. [Subdivision advertising] Real estate signs for recorded subdivisions [of] containing ten (10) or more lots [and] in accordance with the following:

1. One (1) sign per subdivision not exceeding forty-eight (48) square feet in area and, if freestanding, not exceeding twelve (12) feet in height located within the subdivision;

[2. Two (2) signs per subdivision located off site not exceeding six (6) square feet each and not exceeding eight (8) feet in height;]

[3.] 2. Such signs [may only contain the name of the subdivision advertised and a directional arrow and may] must not be illuminated;

[4.] 3. Such signs may be maintained for a period of two (2) years, or until all the lots in the subdivision are sold, which ever occurs first. Sign permits are required and shall be renewable;

c. [Sale, rent or lease] Real estate signs for new or renovated multi-family developments containing up to ten (10) dwelling units; provided:

1. There is only one (1) sign per street frontage not exceeding twelve (12) feet in height located on the property;

2. Such signs [shall] must not be illuminated;

3. No sign permit is required.

d. [Sale, rent or lease] Real estate signs for new or renovated multi-family developments containing more than ten (10) dwelling units in accordance with the following:

1. There is only one (1) sign per street frontage not exceeding forty-eight (48) square feet in area and, if freestanding, not exceeding twelve (12) feet in height located on the property;

[2. There are only two (2) signs per development located off site not exceeding six (6) square feet each and not exceeding eight (8) feet in height;]

[3.] 2. Such signs [may only contain the name of the subdivision advertised and a directional arrow and may] must not be illuminated;

[4.] 3. Such signs may be maintained for a period of two (2) years, or until all the units in the development are rented, sold, or leased which ever occurs first. Sign permits are required and shall be renewable.

e. Noncommercial temporary signs in accordance with the following:

1. Such signs must not exceed an aggregate of twelve (12) square feet per residential lot;

2. If freestanding, such signs must not exceed five (5) feet in height, provided that any sign installed within ten (10) feet from the property line must not exceed 42 inches in height;

3. Temporary yard sale signs must not exceed four square feet in area per sign, must not be displayed for a period longer than two (2) days during any calendar month, and must be removed upon the conclusion of the sale;

4. Such signs must not be illuminated;

5. No sign permit is required.

Sec. 25-466. Signs permitted for nonresidential uses in residential zones.

The following signs are permitted for nonresidential uses in residential zones:

(1) For a church, synagogue or other place of worship and other permitted nonresidential uses in a residential zone, except for child care homes and child care centers located on lots under 20,000 square feet:

a. One (1) permanent sign, not exceeding twenty-four (24) square feet in area for each street frontage;

[b.] 1. If freestanding, it [shall] must not be located less than ten (10) feet from any lot line;

[c.] 2. The sign may contain changeable copy[;].

[d.] b. Directional signs; provided:

1. Such signs do not exceed three (3) square feet in area;
2. If freestanding, such signs [shall] must not exceed six (6) feet in height;

(2) For special exception uses in residential zones:

a. All signs shall be as permitted by the Board of Appeals in its approval of the special exception application, consistent with the provisions of section 25-461;

b. Residential special exceptions valid on December 31, 1983, may have the following options:

1. One (1) sign not exceeding twenty (20) square feet in area is allowed. It may be a building sign or freestanding, if freestanding, it [shall] must not exceed five (5) feet in height; or

2. Apply to the Board of Appeals in accordance with section 25-339, subsection (c).

(3) Temporary real estate signs, are permitted for all nonresidential uses in residential zones in accordance with the provisions of section 25-465 (4) a.

(4) Noncommercial temporary signs are permitted in accordance with the provisions of section 25-465 (4) e.

Sec. 25- 467. Signs permitted in O-2 Zone.

The following signs are permitted in the O-2 Zone:

(1) [Building] Permanent building signs in accordance with the following

a. The total area of all building signs [shall] must not exceed fifteen (15) square feet on any building;

b. Such signs [shall] must not utilize internal illumination;

c. Such signs [shall] must not be placed above the first-story level of any building;

(2) [Freestanding identification] Permanent freestanding signs in accordance with the following

- a. One (1) freestanding [identification] sign for each record lot or project not exceeding eight (8) square feet in area and not exceeding five (5) feet in height;
- b. Such sign [shall] must not utilize internal illumination;
- c. Such sign [shall] must be located not less than ten (10) feet from a lot line of any lot used for a residence;

(3) Directional signs:

- a. Not to exceed three (3) square feet in area;
- b. If freestanding, not to exceed six (6) feet in height;

(4) Temporary signs are permitted in accordance with the following:

- a. One (1) [sale, lease, or rent] real estate sign per lot not exceeding twenty-four (24) square feet in area and eight (8) feet in height, in accordance with the following:

- 1. Such signs [shall] must not be illuminated;
- 2. Such signs may be maintained for a period of two (2) years or until the building or lot is rented, leased or sold, whichever occurs first;
- 3. Such signs [shall] must not be located within thirty (30) feet of a residential zone.

b. Noncommercial temporary signs are permitted in accordance with the following:

- 1. The total aggregate area of all such signs on a single lot must not exceed thirty-two (32) square feet;

- 2. If freestanding, such signs must not exceed eight (8) feet in height;

- 3. Such signs must not be illuminated;

- 4. Such signs must not be located within thirty (30) feet of a residential zone;

- 5. Such signs must not be displayed for more than sixty (60) consecutive days and not more than a total of sixty (60) days within a calendar year;

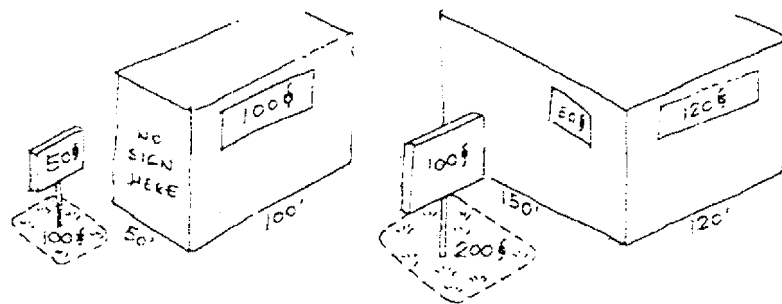
6. No sign permit is required.

Sec. 25-468. Signs permitted for uses in C-1, C-2, RPC, I-1, I-2 and I-4 Zones.

The following signs are permitted for uses in the following zones:

(1) [Building] Permanent building signs are permitted in the C-1, C-2, RPC, I-1, I-2 and I-4 zones in accordance with the following:

a. The total aggregate area of all signs on the premises [pertaining to any one (1)] allowed for each business/tenant [shall] must not exceed two (2) square feet for each linear foot of exterior building [frontage] wall enclosing the business/tenant space up to a maximum of fifty (50) square feet. However, if [the] such building [frontage] wall or portion thereof measures more than fifty (50) linear feet, then the aggregate area of all signs on the premises for that business/tenant may be increased in area at the rate of one (1) square foot for each linear foot of exterior building [frontage] wall in excess of fifty (50) linear feet. For [buildings] business/tenant space with multiple [frontages] exterior building walls, each [frontage] exterior wall may be so measured. All signs shall be placed on the exterior building [frontage] wall or portion thereof used for measurement;



b. For a lot occupied by more than one (1) business/tenant, each building sign [for individual businesses/tenants shall] must be consistent and harmonious in terms of design, color, shape, size, style, material and mounting with all other [such] signs on the building or in the center. A proposal for the entire building or center [shall] must be submitted by the owner prior to the issuance of the first sign permit after the effective date of this article for either a new or existing development;

c. [In addition to the above. buildings] Buildings occupied by four (4) or more businesses/tenants may have [a building identification] one (1) additional building sign with a maximum area of fifty (50) square feet located on an exterior wall;

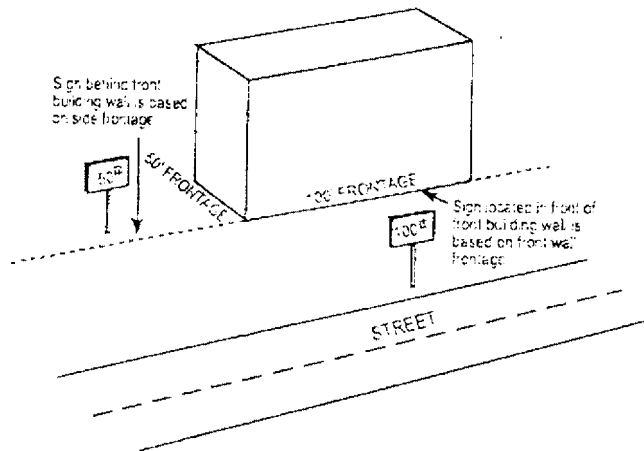
(2) Freestanding [identification] signs are permitted in the C-2 and RPC Zones in accordance with the following:

a. Freestanding [identification] signs[, which] that identify [an individual] a single business/tenant[,] shall be counted as a portion of the total aggregate sign area [of the premises of] allowed for that business/tenant. [Freestanding identification which] Other freestanding signs, including those that identify a multitenant building or center, shall not be counted in the aggregate sign area [of] allowed for any individual business/tenant. Such signs shall be in accordance with the following:

1. One (1) freestanding [identification] sign for each record lot. On record lots larger than five (5) acres, one (1) freestanding [identification] sign shall be permitted on each street frontage on a major highway or business district street. Where more than one (1) freestanding [identification] sign is permitted, they shall be erected at least one hundred (100) feet apart;

2. Such signs [shall have] must not exceed a maximum area of one hundred (100) square feet and a maximum height of twenty (20) feet[. However], provided that the area of a freestanding sign [shall] must not exceed the [allowable] aggregate sign area [of] allowed for the premises as measured by the most proximate building wall;

3. [For buildings with multiple frontages, the] The freestanding sign shall be counted as a portion of the aggregate sign area of the most proximate exterior building [frontage] wall;



4. Such signs [shall] must not be closer than thirty (30) feet to any residential zone;

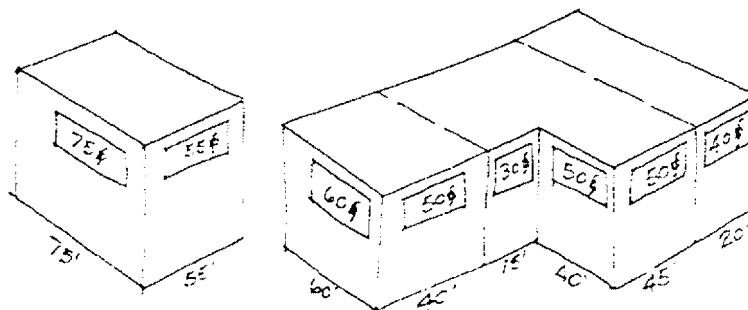
6. The design of the sign shall be consistent and harmonious with the sign plan and architecture for the entire building or center.

1. [Lettering for the individual tenants/businesses shall be not less than ten (10) inches in height.] Lettering for the identification of the building/center must not be less than eighteen (18) inches in height.

2. [Lettering for the building/center shall be not less than eighteen (18) inches in height.] Lettering for the identification of individual businesses/tenants must not be less than ten (10) inches in height.

3. The design of the sign shall be internally consistent and harmonious in color, size, style, material and mounting.

4. The design of the sign shall be consistent and harmonious with the sign plan and architecture for the entire building or center.



Note—Every exterior surface is "frontage"

(3) Freestanding [identification] signs are permitted in the C-1 Zone [shall be] in accordance with the following:

- a. One (1) freestanding [identification] sign per record lot;
- b. Such sign [shall have] must not exceed a maximum area of fifty (50) square feet and a maximum height of six (6) feet;
- c. Such sign [shall] must not utilize internal illumination;

d. Such sign [shall] must not be located [not less than] within ten (10) feet from any lot line;

e. A landscaped area [shall] must be provided at the base of the freestanding sign, with the landscaped area to be a minimum area of two (2) square feet of sign area;

f. Freestanding [identification] signs [which] that contain the name, logo or trademark of more than one (1) business, place, organization, building, or person [shall] must in addition satisfy the additional requirements set forth in subsection (2)b. of this section.

(4) In the I-1, I-2, and I-4 Zones freestanding [identification] signs[, which] that identify [an individual] a single business/tenant shall be counted as a portion of the total aggregate sign area [of the premises of] allowed for that business/tenant. [Freestanding identification signs which] Other freestanding signs, including those that identify a multi-tenant building or center, shall not be counted in the aggregate sign area [of] allowed for, any individual business/tenant. Such signs shall be in accordance with the following:

a. There shall be only one (1) freestanding [identification] sign per record lot;

b. Such signs [shall] must have a maximum area of fifty (50) square feet and a maximum height of ten (10) feet;

c. [For buildings with multiple frontages, the] The freestanding sign shall be counted as a portion of the aggregate sign area of the most proximate exterior building [frontage] wall;

d. Such signs [shall] must not be closer than thirty (30) feet to any residential zone;

e. Freestanding [identification] signs [which] that contain the name, logo or trademark of that more than one (1) business, place, organization, building, or person [shall] must in addition satisfy the additional requirements set forth in subsection (2)b. of this section.

(5) Directory signs in the C-1, C-2, RPC, I-1, I-2 and I-4 zones. Buildings or centers occupied by four (4) or more businesses/tenants may have one (1) [directory] additional sign, with one (1) entry per business/tenant. Letters shall be a maximum height of three (3) inches and [shall] must be consistent in style. Such sign may be erected as a building sign or freestanding sign not intended to be readable from a public way. If freestanding, such sign [shall have] must not exceed a maximum of fifty (50) square feet in area and a maximum height of ten (10) feet;

(6) Directional signs in the C-1, C-2, RPC, I-1, I-2, and I-4 zones not to exceed three (3) square feet in area. If freestanding, they [shall] must not exceed six (6) feet in height;

(7) [Price signs in] In the C-1, C-2, RPC, I-1, I-2 and I-4 zones gasoline price signs required by State law for automobile filling stations may be freestanding or erected as a building sign. [only in accordance with the following:

a. Gasoline price information shall be posted in accordance with the minimum requirements of State law.] Any such sign or portion thereof that exceeds the minimum requirements of State law shall be counted in the number, size and total aggregate area for the business[;].

[b. Changeable copy will be allowed regarding gasoline price only;

c. Such sign may be freestanding or erected as a building sign;]

(8) Changeable [message] copy signs are permitted in the C-1, C-2, RPC, I-1, I-2 and I-4 zones to announce current and future entertainment productions. [in accordance with the following:

a. The sign shall be either:

1. A sign for theatre or entertainment establishment for the sole purpose of identifying the name, case, time and date of present and future motion pictures or other entertainment productions; or

2. A sign for a shopping mall or arcade having at least one hundred thousand (100,000) square feet of gross floor area and having at least ten (10) separate uses not visible from adjoining streets to announce current and future events;

b.] Such sign may be freestanding and shall be counted in the number, size and aggregate sign area permitted for the business/tenant;

(9) Temporary signs in the C-1, C-2, RPC, I-1, I-2 and I-4 zones in accordance with the following:

a. [A sale, lease, or rent sign, one] One (1) real estate sign per lot not exceeding forty-eight (48) square feet in area, and not more than twelve (12) feet in height if freestanding, or one (1) building sign not exceeding seventy-two (72) square feet in area if mounted at least seventy (70) feet above adjacent grade, in accordance with the following:

1. Such signs [shall] must not be illuminated;

2. Such signs may be maintained for a period of two (2) years or until the building or lot is rented, leased or sold, whichever occurs first. Signs must be removed within thirty (30) days after sale, lease or rental. [The Sign Review Board may permit the issuance of a subsequent permit for such sign, as long as space in the building remains for lease or rent, or the building is for sale.] Signs installed for a two (2) year renewal period are limited to a maximum size of twenty-four (24) square feet [and must be approved by the Sign Review Board for design and location. A sixty (60) day waiting period is required between the removal of a sign whose permit has expired and the installation of the approved renewal sign];

3. Such signs [shall] must not be located within thirty (30) feet of a residential zone;

b. One (1) sign may be erected during the period of construction [identifying the contractor, architect, lending institution, etc.] with a total maximum sign area of seventy-two (72) square feet;

c. [Grand opening banners] Upon occupancy of a space by a business or tenant, banners, pennants and displays not exceeding thirty-two (32) square feet in total area may be erected for up to sixty (60) consecutive days including days before or after actual occupancy date by the business or tenant.

d. Temporary non-commercial signs are permitted in the C-1, C-2, RPC, I-1, I-2 and I-4 zones in accordance with the provisions of section 25-467 (4) b.

(10) Subdivision [identification] entrance signs. In the I-1, I-2, and I-4 Zones, permanent [identification] signs within recorded subdivisions of four (4) or more lots in accordance with the following:

a. One (1) sign not exceeding fifty (50) square feet in area and not exceeding six (6) feet in height.

b. Such sign must be located at or near the entrance to the subdivision within the boundaries of the subdivision. Final location of such sign [to] must be approved by the City Traffic Engineer to ensure that the sign does not obstruct the visibility of motorists.

c. Such sign [shall] must be located in a landscaped area of at least two (2) square feet per each square foot of sign area.

d. Such sign [shall] must not utilize internal illumination.

Sec. 25-469. Signs permitted for uses in the O-3 and I-3 Zones.

The following signs are permitted in O-3 and I-3 Zones:

(1) Building signs, in accordance with the following:

a. The total area of all signs erected on a record lot in a O-3 and I-3 Zones [shall] must not exceed two hundred fifty (250) square feet;

b. For a lot occupied by more than one (1) business/tenant, each building sign [for individual businesses/tenants] shall be consistent and harmonious in terms of design, color, shape, size, style, material and mounting with all other such signs on the building or in the center. A proposal for signage for the entire building or center [shall] must be submitted prior to the issuance of the first sign permit for either a new or existing development;

(2) Freestanding [identification] signs. Freestanding [identification] signs shall be counted as a portion of the total aggregate sign area of the lot, and [shall] must be in accordance with the following:

a. One (1) freestanding [identification] sign for each record lot not exceeding one hundred (100) square feet in area and not exceeding twenty (20) feet in height is allowed. Such sign [shall] must be located not less than fifty (50) feet from any lot line;

b. In addition, record lots which abut a limited access highway shall be permitted one (1) additional freestanding [identification] sign not exceeding fifty (50) square feet in area and not exceeding five (5) feet in height to be located at the principal point of ingress to such lot and not less than ten (10) feet from any lot line;

c. A landscaped area [shall] must be provided at the base of the freestanding sign. The landscaped area [shall] must be a minimum area of two (2) square feet for each square foot of sign area;

d. [Freestanding signs may identify up to four (4) individual tenants per sign, using a maximum of six (6) inch high letters or graphics for tenant names.] Letters and graphics on such signs must not exceed six (6) inches in height.

(3) Directional signs not to exceed three (3) square feet in area. If freestanding, they shall not exceed six (6) feet in height.

(4) Temporary signs shall be permitted in accordance with the following:

a. [Sale, lease, or rent] Real estate signs, one (1) sign per lot not exceeding forty-eight (48) square feet in area, and not more than twelve (12) feet in height if freestanding, or one (1) building sign not exceeding seventy-two (72) square feet in area if mounted at least seventy (70) feet above grade in accordance with the following:

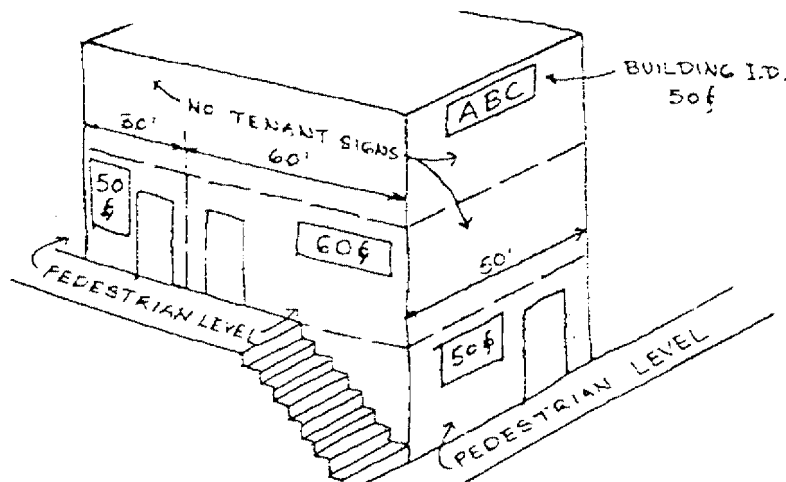
1. Such signs [shall] must not be illuminated;
 2. Such signs may be maintained for a period of two (2) years or until the building or lot is rented, leased or sold, whichever occurs first. Signs must be removed within thirty (30) days after sale, lease or rental. [The Sign Review Board may permit the issuance of a subsequent permit for such sign, as long as space in the building remains for lease or rent, or the building is for sale.] Signs installed for a two (2) year renewal period are limited to a maximum size of twenty-four (24) square feet [and must be approved by the Sign Review Board for design and location. A sixty (60) day waiting period is required between the removal of a sign whose permit has expired and the installation of the approved renewal sign];
 3. Such signs [shall] must not be located within thirty (30) feet of a residential zone;
 4. Lots abutting a limited access highway may have a second real estate sign:
 - b. One (1) sign may be erected during the period of construction [identifying the contractor, architect, lending institution,] with a total maximum sign area of seventy-two (72) square feet;
 - c. Temporary non-commercial signs are permitted in accordance with the provisions of section 25-467 (4) b.
- (5) Subdivision [identification] entrance signs. Permanent [identification] signs within a recorded subdivisions of four (4) or more lots in accordance with the following:
- a. One sign not exceeding fifty (50) square feet in area and not exceeding six (6) feet in height.
 - b. Such sign must be located at or near the entrance of the subdivision. Final location of such sign [to] must be approved by the City Traffic Engineer to ensure that the sign does not obstruct the visibility of motorists.
 - c. Such sign [shall] must be located in a landscaped area of at least two (2) square feet per each square foot of sign area.
 - d. Such sign [shall] must not utilize internal illumination

Sec. 25-470. Signs permitted for all uses in the in TCO-1, TCO-2, TCM-1, TCM-2, O-1 and RPR Zones.

The following signs are permitted for all uses in the TCO-1, TCO-2, TCM-1, TCM-2, O-1 and RPR zones in accordance with the following:

(1) Building signs in accordance with the following:

a. The total aggregate area of all signs on the premises [pertaining to any one (1)] allowed for each business/tenant [shall] must not exceed two (2) square feet for each linear foot of exterior building [frontage] wall enclosing a business/tenant space up to a maximum of fifty (50) square feet. However, if [the] building [frontage] wall or portion thereof measures more than fifty (50) feet, then the aggregate area of all signs on the premises allowed for that business/tenant may be increased in area at the rate of one (1) square foot for each linear foot of exterior building [frontage] wall in excess of fifty (50) linear feet;

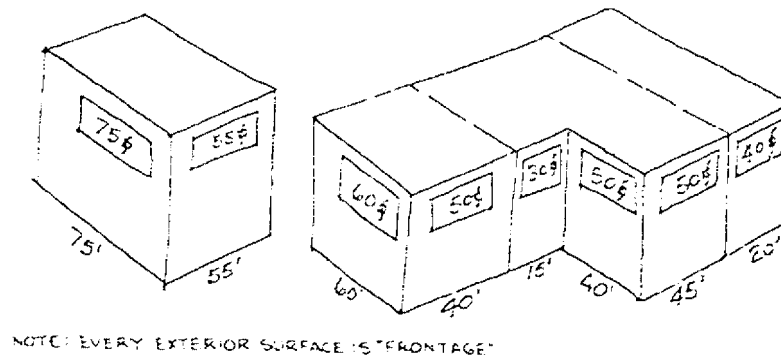


b. For a lot occupied by more than one (1) business/tenant, each building sign [for individual businesses/tenants shall] must be consistent and harmonious in terms of design, color, shape, size, style, material and mounting with all other such signs on the building or in the center. A proposal for the entire building or center [shall] must be submitted by the owner prior to the issuance of the first sign permit for either a new or existing development;

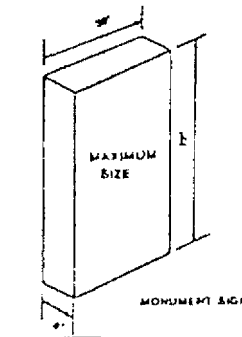
c. Signs allowed for an individual business/tenant in a multi-tenant building [shall] must be placed only on pedestrian levels of the building;

d. In addition to the above, buildings occupied by two (2) or more businesses/tenants may have building [identification] signs with a maximum area of fifty

(50) square feet each located on any exterior wall that has frontage on the public right-of-way;



(2) Freestanding [identification] signs. In the TCO-2, TCM-1, TCM-2 and O-1 Zones, one (1) freestanding nonilluminated monument sign per lot, not exceeding three (3) feet by eight (8) inches in size. The sign [shall] must not exceed six (6) feet in height and must not have a separate supporting structure. Letters or graphics [shall] must not exceed six (6) inches in height. [Such signs may identify more than 1 (one) tenant.] Final location of such sign shall be approved by the City Traffic Engineer to ensure motorist visibility.



(3) Directional signs not to exceed three (3) square feet in area. If freestanding they [shall] must not exceed six (6) feet in height;

(4) [Price signs] Gasoline price signs required by State law for automobile filling stations may be freestanding or erected as a building sign. [only in accordance with the following:

a. Gasoline price information shall be posted in accordance with the minimum requirements of State law.] Any such sign or portion thereof that exceeds the minimum requirements of State law shall be counted in the number, size and total aggregate area for the business;

[b. Changeable copy will be allowed regarding gasoline price only;

c. Such sign may be freestanding or erected as a building sign;]

(5) Changeable [message] copy signs. Changeable [message] copy signs [shall be] are allowed to announce current and future entertainment productions; [in accordance with the following:

a. The sign shall be either:

1. A sign for theatre or entertainment establishment for the sole purpose of identifying the name, cast, time and date of present and future motion pictures or other entertainment productions; or

2. A sign for a shopping mall or arcade having at least one hundred thousand (100,000) square feet of gross floor area and having at least ten (10) separate uses not visible from adjoining streets, for the sole purpose of announcing current and future events;

b.] Such sign may be freestanding and shall be counted in the number, size and aggregate sign area allowed for the business/tenant;

(6) Temporary signs [shall be] are permitted in accordance with the following:

a. One (1) [sale, lease, or rent sign] real estate sign per lot not exceeding forty-eight (48) square feet in area, and not more than twelve (12) feet in height if freestanding, or one (1) building sign not exceeding seventy-two (72) square feet in area if mounted at least seventy (70) feet above adjacent grade, is allowed in accordance with the following:

1. Such signs [shall] must not be illuminated;

2. Such signs may be maintained for a period of two (2) years or until the building or lot is rented, leased or sold, whichever occurs first. Signs must be removed within thirty (30) days after sale, lease or rental. [The Sign Review Board may permit the issuance of a subsequent permit for such sign, as long as space in the building remains for lease or rent, or the building is for sale.] Signs installed for a two (2) year renewal period are limited to a maximum size of twenty-four (24) square feet [and must be approved by the Sign Review Board for design and location. A sixty (60) day waiting period is required between the removal of a sign whose permit has expired and the installation of the approved renewal sign];

3. Such signs [shall] must not be located within thirty (30) feet of a residential zone;

b. One (1) sign may be erected during the period of construction [identifying the contractor, architect, lending institution] with a total maximum sign area of seventy-two (72) square feet;

c. [Grand opening banners] Upon occupancy of a space by a business or tenant, banners, pennants and displays not exceeding thirty-two (32) square feet in total area may be erected for up to for up to sixty (60) consecutive days including days before or after actual occupancy date by the business or tenant.

d. Temporary noncommercial signs are permitted in the TCO-1, TCO-2, TCM-1, TCM-2, O-1 and RPR Zones in accordance with the provisions of section 25-467 (4) b.

Sec. 25-471. [Political] Election signs.

[Political] Election signs [shall be] are permitted in accordance with the following:

(1) In residential zones and on residential property in all zones, such signs [may not exceed a total of nine (9) square feet] must comply with the size, area, height, and location requirements for temporary noncommercial signs contained in sections 25-465 (4) e. Such signs [shall be located] are subject to applicable provisions of [subsection (a) of] section 25-461. No sign permit is required.

(2) In all other zones, such signs [may not exceed a total of thirty-two (32) square feet in area and eight (8) feet in height] must comply with the requirements of the zone in which it is located pertaining to the size, area, height, duration, and location requirements for noncommercial temporary signs. Such signs [shall be located] are subject to applicable provisions of [subsection (a) of] section 25-461. No sign permit is required [except for campaign headquarters identification signs];

(3) [Political signs may be erected only for a period beginning thirty (30) days prior to the election to which they pertain and ending] Election signs must be removed within seven (7) days after [such] the election to which they pertain; provided that where a general election follows a primary election within seventy-five (75) days, a sign relating to a candidate who is either nominated in the primary or running unopposed may remain in place during the period between the primary and the general election. It shall be the obligation of the candidate to cause all such signs to be removed prior to the expiration of the period.

(4) [Political] Election signs [may] must not be illuminated.

Section 25-472. Signs on public property and the public right-of-way.

(a) No sign is permitted on public property or within the public right-of-way except as directed or authorized by the City Manager.

(b) The City Manager may direct or authorize the erection of the following signs on public property or within the public right-of-way:

(1) Signs that comply with the provisions of the Manual on Uniform Traffic Control Devices or that otherwise provide directional or other noncommercial public service information.

(2) Signs pertaining to a governmental or public purpose.

(3) Signs pertaining to the use, maintenance, and/or operation of public property or right-of-way and/or pertaining to any events or activities lawfully conducted on said property or right-of-way.

(4) Signs pertaining to the closure or partial closure of a road or other public right-of-way.

Sec. 25-473. Noncommercial speech permitted for all signs.

Notwithstanding any provision of this article or chapter to the contrary, any sign erected pursuant to the provisions of this article or chapter may, at the option of the owner, contain a noncommercial message unrelated to the business located on the premises where the sign is erected, provided that the other criteria and regulations contained in this article and chapter have been satisfied, including the size, height, setback, location, duration, design, and construction regulations and criteria.

Note: Underlining indicates language added
[Brackets] indicate material deleted

ZONING TEXT AMENDMENT APPLICATION TXT2004-00210
ERRATA SHEET

Sec. 25-1. Definitions

Sign, abandoned means a sign which identifies a business, lessor, service, owner, product, or activity that is no longer located on the premises, a sign for which no legal owner can be found. "Abandoned sign" also includes any permanent sign not properly maintained or operated for a period of six months or longer, any temporary sign that has deteriorated, and any sign structure ~~[[which]]~~ that no longer supports the sign for which it was designed. Permanent signs applicable to a business temporarily suspended because of a change of ownership or management of such business shall not be deemed abandoned unless the property, building, or space remains vacant for a period of six (6) months or more.

Sign, commercial means a sign that directs the attention of the public, directly or indirectly, to a business, commodity, sale or sales event, or other commercial activity. Commercial sign does not include ~~[[political]]~~ election signs, temporary signs pertaining to fundraising activities for non-profit organizations, or ~~[[limited duration]]~~ temporary yard sale signs.

Sec. 25-81. Sign Review Board

(c) Powers and duties.

* * *

(2) The Board shall

b. Hear and decide applications for modifications from the sign regulations in Article XI of this Chapter. The Board may grant modifications from provisions of the sign regulations, with such terms and conditions it deems appropriate, upon the following findings:

* * *

(iii) That the modification can be granted without substantial impairment of the intent, purpose, and integrity of the regulations and of this chapter;

* * *

(h) Appeal

* * *

(3) All such appeals shall be *de novo* and shall be considered by the Board of Appeals in the same manner as appeals from determinations of administrative officials as provided for, and in accordance with, State law. . . * * *

Sec. 25-457. Exemptions.

(a) This article does not apply to

* * *

(8) Signs located on public or private recreational facilities on parcels of five acres ~~[[of]]~~ or more, provided that such signs are not visible from outside the boundaries of the property.

Sec. 25-462. Sign permits; appeals.

* * *

Sec. 25-461. Only permitted signs lawful; signs specifically prohibited.

(a) No sign shall be erected unless such sign is specifically permitted by this article and complies with all of the requirements of this chapter.

(b) [Prohibited signs include, but are not limited to, the following:] The following signs are specifically prohibited:

* * *

(16) Any sign with words, scenes, or graphics of an obscene, indecent, or prurient character which offend public morals or decency.

(d) [A sign permit shall be issued if the Superintendent of the Division of Licenses and Inspection finds that the sign proposed in the application will not: * * *]

The Chief of Inspection Services must review the application within fifteen (15) ~~[[working]]~~ business days from the date of submission of the application and required fee and either approve or deny the application or return the application to the applicant if the application is incomplete.

* * *

(f) No permit for a sign issued hereunder shall be deemed to constitute permission or authorization to erect or maintain an unlawful sign nor shall any permit issued hereunder constitute a defense in an action to abate an unlawful sign.

Sec. 25-464. Removal of [prohibited] signs.

(a) Any prohibited sign found on any public property or right-of-way within the City shall be removed by the City Manager or the City Manager's designate [after reasonable attempt to give notice], and held for a period of three (3) ~~[[working]]~~ business days during which time it may be claimed by the owner. * * *

* * *

(c) Any sign that pertains to a time, event, activity, or purpose, must be removed within seven (7) calendar days of the conclusion of the time, event, or purpose to which it pertains.

Sec. 25-465. Signs permitted for residential uses in all zones.

* * *

(4) The following temporary signs:

* * *

e. Noncommercial temporary signs in accordance with the following:

* * *

3. Temporary yard sale signs must not exceed four square feet in area per sign, must not be displayed for a period longer than two (2) calendar days during any calendar month, and must be removed upon the conclusion of the sale.

Sec. 25-466. Signs permitted for nonresidential uses in residential zones.

* * *

(2) For special exception uses in residential zones

a. All signs shall be as permitted by the Board of Appeals in its approval of the special exception application, consistent with the provisions of section 25-465 (a) (1)-(3).

* * *

Sec. 25- 467. Signs permitted in O-2 and C-~~T~~ ~~[[Zone]]~~ Zones.

The following signs are permitted in the O-2 and C-~~T~~ ~~[[Zone]]~~ Zones:

* * *

Sec. 25-468. Signs permitted for uses in C-1, C-2, RPC, I-1, I-2 and I-4 Zones.

* * *

(2) Freestanding [identification] signs are permitted in the C-2 and RPC Zones in accordance with the following:

* * *

b. Freestanding signs [which] that contain the name, logo or trademark of more than one (1) business, place, organization, building or person [shall] must satisfy the requirements set forth in subsections (2)a.1. through 6. of this section plus the following additional requirements:

1. [Lettering for the individual tenants/businesses shall be not less than ten (10) inches in height.] Lettering for the identification of the building/center and other copy must not be less than eighteen (18) inches in height.

* * *

(5) [[Directory]] Additional signs in the C-1, C-2, RPC, I-1, I-2 and I-4 zones. Buildings or centers occupied by four (4) or more businesses may have one (1) [directory] additional sign, with one (1) entry per business/tenant. Letters shall be a maximum height of three (3) inches and [shall] must be consistent in style. Such sign may be erected as a building sign or freestanding sign not intended to be readable from a public way. If freestanding, such sign [shall have] must not exceed a maximum of fifty (50) square feet in area and a maximum height of ten (10) feet;

* * *

(9) Temporary signs in the C-1, C-2, RPC, I-1, I-2 and I-4 zones in accordance with the following:

* * *

d. Temporary [[non-commercial]] noncommercial signs are permitted in the C-1, C-2, RPC, I-1, I-2 and I-4 zones in accordance with the provisions of section 25-467 (4) b.

Sec. 25-469. Signs permitted for uses in the O-3 and I-3 Zones.

* * *

(4) Temporary signs shall be permitted in accordance with the following:

* * *

c. Temporary [[non-commercial]] noncommercial signs are permitted in accordance with the provisions of section 25-467 (4) b.

Sec. 25-470. Signs permitted for all uses in the ~~[[in]]~~ TCO-1, TCO-2, TCM-1, TCM-2, O-1 and RPR Zones.

* * *

Section 25-472. Signs on public property and the public right-of-way.

(a) No sign is permitted on public property or within the public right-of-way, except as directed or authorized by the City Manager.

(b) The City Manager may direct or authorize the erection of the following signs on public property or within the public right-of-way:

(1) Signs that comply with the provisions of the Manual on Uniform Traffic Control Devices ~~[[or that otherwise provide directional or other noncommercial public service information]].~~

(2) Signs that provide directional or other public service information.

~~[[2]]~~ (3) Signs pertaining to a governmental or public purpose.

~~[[3]]~~ (4) Signs pertaining to the use, maintenance, and/or operation of public property or right-of-way and/or pertaining to any events or activities lawfully conducted on said property or right-of-way.

~~[[4]]~~ (5) Signs pertaining to the closure or partial closure of a road or other public right-of-way.

(6) Such other signs deemed to be in the public interest.

**ZONING TEXT AMENDMENT APPLICATION TXT2004-00210
STAFF REPORT**

Background

Certain outdoor advertising companies in the business of erecting large billboards along heavily traveled roadways are engaged in a nationwide campaign of challenging the constitutionality of municipal sign ordinances. These companies file lawsuits making broad-based attacks on the sign ordinances, often alleging deficiencies that have nothing to do with billboards, on the chance that they can convince a court to invalidate an entire sign ordinance. If this tactic proves successful the sign companies then erect large billboards before the municipality can enact another sign ordinance. Signs erected under these circumstances have been as large as 1800 square feet. Where such a sign was erected in Snellville Georgia, it collapsed, killing 3 workers.

Such a lawsuit has been filed against the City of Rockville by an outdoor advertising company that was denied permits to erect within the City a number of large, off-site message signs commonly referred to as billboards. The proposed signs far exceeded the maximum size sign permitted within the City and violated the prohibition against signs that "contain the name of a building, product, business, service or institution which is not located on the same lot as the sign." (Section 25-461.)

The lawsuit filed in Federal Court alleges that the sign regulations of the City's Zoning Ordinance are impermissibly content based, that they give preference to commercial speech over noncommercial speech, and that they constitute a prior restraint on speech in that they fail to provide time frames in which officials are required to act on sign permit applications and appeals from permit denials. That suit has been dismissed on jurisdictional grounds by the Federal District Court, which dismissal is currently on appeal before the Fourth Circuit Court of Appeals.

The City Attorney's office has reviewed the City's sign regulations as interpreted by the City and the City's enforcement practices and concluded that they pass constitutional muster and that the challenges raised in the lawsuit are without merit. The City has applied and interpreted its sign provisions in a constitutional manner. In particular:

- Commercial speech is not given preference over noncommercial speech. Since 1991 when a Rockville business owner sought to erect a sign supporting the Gulf War, the City has interpreted the sign ordinance to allow the usage of allowable business/tenant sign area for any message, commercial or noncommercial, so long as the sign otherwise complies with the sign regulations.
- The City does not engage in unconstitutional prior restraint of speech. Although there are no specific time frames set forth in the Zoning Ordinance for action on any City permits, including sign permits, the City's practice is to act promptly on all such permits and to advise applicants how to correct incomplete applications.

Indeed, in the billboard case in question, Inspection Services reviewed the application at the counter and immediately advised the applicant that the requested permit could not be issued. In addition, the Sign Review Board and the Board of Appeals act in a timely and reasonable manner to hear and decide appeals and applications pertaining to signs.

- The sign regulations are not impermissible content based. The sign regulations reference signs based upon their function (identification signs, grand opening signs, directional signs, real estate signs, etc.) and in no way evaluate speech or the speaker or discriminate on the basis of the viewpoint of the speaker.

However, in order to avoid any possible future uncertainty and to discourage future frivolous challenges by the billboard industry and others, it is desirable and in the best interest of the City and its citizens to make certain revisions to the sign regulations by amending and modifying the sign provisions to: codify current practices pertaining to the interpretation and enforcement of the sign regulations; clarify the constitutional purposes of the sign regulations; confirm the City's current practice of allowing noncommercial messages wherever commercial signs are allowed; make clear that the regulations do not, unconstitutionally restrain or restrict speech; and to make clear that it is the City's intent to provide ample and constitutionally adequate opportunities to engage in noncommercial speech while protecting the community against the deleterious effects of unregulated signage. The text amendment also provides an opportunity to make certain grammatical and stylistic changes, eliminate certain outdated provisions, update other provisions, and to make certain other desirable revisions to the sign regulations.

On May 24, 2004 the Mayor and Council authorized the filing of a text amendment application (identified as Text Amendment Application TXT2004-00210) for such purposes. Subsequent to its filing, an Errata Sheet was prepared containing certain revisions to the proposed text amendment application, a copy of which is attached to this Staff Report. The discussion in this report pertains to the text amendment application as revised by the Errata Sheet.

Text Amendment Application TXT2004-00210 is designed to serve the foregoing limited purposes. It is not designed to address any perceived need for expanded commercial signage opportunities. The issue of additional commercial signage is a complex and controversial one, and, if deemed appropriate, should be addressed by a separate text amendment.

Summary of Amendments. Text Amendment Application TXT2004-00210:

1. Clarifies and articulates in more detail the purpose of the sign regulations. The sign regulations serve aesthetic, safety, and economic purposes. Regulation of the size, number, height, placement and other characteristics of signs help avoid confusion, reduce visual clutter, reduce distraction or the traveling public, and

otherwise minimize the adverse impact of signs on traffic and pedestrian safety and aesthetics. Appropriate regulation of signs enhances the attractiveness and economic well-being of the City as a place to live, visit, and conduct business. The sign regulations also recognize and accommodate the unique importance of real estate signs, political signs, and noncommercial speech, as recognized by the courts.

2. Establishes specific time frames in which a sign permit application must be acted upon, time frames in which the Sign Review Board must hear and decide denials of permits and applications to modify provisions of the sign regulations, and time frames in which the Board of Appeals must hear and decide appeals from decisions of the Sign Review Board.
3. Clarifies the prohibition against off-site messages by adding a definition of "off-premises signs," and excluding from that definition election signs and noncommercial signs that comply with all other requirements of the Zoning Ordinance. The purpose of prohibiting off-premises signs is (a) to avoid potential confusion as to the nature of the use of the site where the sign is located; such signs could lure unsuspecting drivers to a location in the mistaken belief that the business identified in the sign was located on the premises; and (b) on-premises commercial signs are part of, and accessory to, the primary use on the site; whereas off-premises signs are separate from the primary use on the site and are in themselves a type of commercial use not compatible with adjacent areas, and are not an approved land use within any zone in the City. Noncommercial messages are significantly less likely to confuse the public as to the use of the site, and as an expression of the occupant's free speech rights can be viewed as accessory to the occupant's use of the property. Therefore, noncommercial signs can be allowed without undermining the purpose of the sign regulations.
4. Adds a new section expressly providing that noncommercial messages may appear on any sign otherwise permitted by the sign regulations. This provision is to a large extent redundant in light of the clarified definition of "off-premises sign" and the deletion of references to a sign's function, discussed below. Its purpose to preclude any misreading of the regulations and preclude any argument that any other provision of the regulations prohibits the use of permitted signage for noncommercial messages. Since, under this provision, the noncommercial signage is in lieu of and not in addition to already permitted signage, and is subject to all of the other limitations and regulations applicable to signs, the purpose of limiting visual clutter, distraction, and negative aesthetic impacts of signs is preserved and is not undermined by this provision.
5. Deletes most existing references to a sign's function and allows signage based on area, height, number, design, construction, location, and time constraints.
 - Instead of allowing "identification signs" the regulations allow signage for businesses and tenants. Such signage may be in the form of building signs

or freestanding signs, subject to limitations in size, height, number, and location.

- Instead of allowing construction signs in certain zones, temporary signage is permitted during the period of construction.
- Instead of allowing grand opening signs in certain zones, temporary signage is permitted around the period that a new occupant occupies commercial space.

It is anticipated that most businesses and tenants will use allowable signs in the same manner as they are currently used, i.e. building and wall signs are likely to be used to identify businesses; signage permitted during construction are likely to be used to identify the contractor, architect, lender, etc; and signs permitted around the time of a new occupancy are likely to be used to announce the opening of the new business. However, should the tenant/business so choose, the signs could be used for any commercial or noncommercial message, except for a prohibited off-premises message or obscene message.

The only signs that are referred to by function are “directional signs” and “real estate signs.” “Directional signs” are defined as “a noncommercial sign that contains only information assisting the flow of vehicular or pedestrian traffic or control of parking.” It is essential to specifically provide for “directional signs” because of the safety and way-finding function they serve. Similarly, it is essential to specifically provide for “real estate signs” because unimproved/vacant property is an economic and social blight on a community that adversely affects the people who live and work in a community. The City has a compelling interest in fostering and promoting occupancy of residential and commercial/industrial property in the City. Specifically providing for temporary on-site real estate signs serves that interest and is consistent with the recognition by the United States Supreme Court of the important role and unique function performed by real estate signs.

6. Confirms and expands opportunities for noncommercial speech through new provisions allowing noncommercial temporary signs in residential and nonresidential areas. These signs, which include yard sale signs, non-profit fund-raising signs, and election signs, may be used for any otherwise lawful noncommercial messages. This provision recognizes and confirms the current practice of allowing residents to erect such signs on their property.

The permissible noncommercial temporary signage allowed in residential areas is a total aggregate area of 12 square feet, not to exceed 5 feet in height per freestanding sign, provided that any sign installed within 10 feet from the property line must not exceed 42 inches in height. The permissible noncommercial temporary signage allowed in nonresidential zones is a total aggregate area of 32 square feet per lot, not to exceed 8 feet in height per freestanding sign. Such signs must not be located within 30 feet of a residential zone.

In nonresidential zones noncommercial temporary signs may be erected for not more than 60 consecutive days or a total of 60 days in a calendar year. There is no time limit on noncommercial temporary signs in residential areas because residential property, unlike non-residential property, does not have significant permanent signage that can be used for noncommercial messages.

7. Amends the provisions pertaining to political signs. The term "political sign" has been changed to "election signs" in recognition of the distinction between signs advocating an issue or candidacy to be voted upon in an election and signs containing other "political" messages not related to a specific election. Under the proposed text amendment, election signs are allowed as noncommercial temporary signs. The noncommercial temporary signage allowed is the same signage area currently allowed for political signs in nonresidential zones (32 square feet per lot, not more than 8 feet in height). The only additional requirement is that such signs must not be located within 30 feet of a residential zone. The noncommercial temporary signage allowed in residential areas at 12 square feet per lot exceeds the 9 square feet currently allowed for political signs in residential zones.

Campaign headquarters signs are treated as permanent signs. Businesses/tenants in nonresidential zones can use allowed permanent signage areas for election advocacy messages.

The current provision that prevents political signs from being erected earlier than 30 days prior to the election is eliminated. Election signs will be governed by the time restrictions for noncommercial temporary signs. In nonresidential zones noncommercial temporary signs may be erected for not more than 60 consecutive days or a total of 60 days in a calendar year. There is no time limit on noncommercial temporary signs in residential areas. However, noncommercial temporary signs are subject to the requirement that a sign pertaining to a time, event, activity, or purpose must be removed within seven (7) days of the conclusion of the time, event, or purpose to which it pertains. The proposed text amendment retains the provision that where a general election follows a primary election within seventy-five (75) days, a sign relating to a candidate who is either nominated in the primary or running unopposed may remain in place during the period between the primary and the general election.

Detailed Review of Text Amendment Application TXT2004-00210.

Article 1. General

Sec. 25-21. Definitions.

Various definitions are deleted, added, or modified. In particular, the following definitions are inter-related:

The definition of sign has been simplified by defining the term as "any structure, part thereof, or device attached thereto or painted or represented thereon or any material or thing, illuminated or otherwise, which displays or includes any numeral, letter, words, model, banner, pennant, emblem, insignia, device, trademark, logo, graphic or other representation *used in any manner whatsoever, so as to convey information or attract attention.*" The definition continues to exclude "the flag, emblem, insignia, poster, or other display of a nation, state or political subdivision.

An off-premises sign is a sign that directs attention to a building, product, business, organization, service, entertainment, commodity, accommodation, activity or institution that is not located, conducted, sold, rented, produced, manufactured and/or furnished on the same lot as the sign. It does not include noncommercial signs.

A noncommercial sign is a sign that is not a commercial sign. A commercial sign is defined as a sign that references, or directs the attention of the public to, a business, commodity, service, sale or sales event, or other commercial activity. It does not include election signs, signs pertaining to fund-raising activities for non-profit organizations, or temporary yard signs. A definition for yard signs is also provided.

Also included is a definition of abandoned sign, which includes the following:

- A sign "which identifies a business, lessor, service, owner, product, or activity that is no longer located on the premises;" except that permanent signs applicable to a business temporarily suspended because of a change of ownership or management of such business shall not be deemed abandoned unless the property, building, or space remains vacant for a period of six (6) months or more;
- A sign for which no legal owner can be found;
- A permanent sign not properly maintained or operated for a period of six months or longer;
- A temporary sign that has deteriorated; and
- Any sign structure that no longer supports the sign for which it was designed.

A definition for "real estate sign" is added to replace the phrase "sale, lease, or rent sign." Also included are new definitions of "glare," "ornamental flag," "occupant identification sign," and "temporary sign," along with other new and modified definitions.

Sec. 25-4. Severability The severability clause of the Zoning Ordinance has been reaffirmed and expanded so as to express the clear legislative intent that as much of the Zoning Ordinance as possible, including the sign regulations, be upheld and sustained in

the event that any portion thereof (including any section, sentence, clause or phrase) be held invalid or unconstitutional by any court of competent jurisdiction.

Article II. Administration.

Sec. 25-81. Sign Review Board. The current provisions pertaining to the Sign Review Board have been moved from section 25-458 to a new section 25-81, in Article II where the provisions pertaining to the Planning Commission, Board of Appeals, and Historic District Commission are also located. By locating the Sign Review Board provisions in Article II of the Zoning Ordinance any future revisions to those provisions can be made by an ordinary ordinance and does not have to go through the text amendment process.

The Sign Review Board reviews requests from the City or an applicant to review a sign permit and make a determination as to whether or not the proposed sign complies with the requirements and purposes of the ordinance. The Chief of Inspection Services would make such a request if she were uncertain as to whether or not a sign permit application complies with the regulations; an applicant would make such a request if its application for a sign permit is denied. The Sign Review Board also considers requests for modifications from the sign regulations. Currently, such modifications can be granted if the Board determines that (1) the strict application of the sign regulations would result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property or the owner of the sign, and (2) that the modification can be granted without substantial impairment of the intent, purpose, and integrity of the regulations and the Zoning Ordinance. The proposed text amendment adds the requirement that the finding be made that the modification is the minimum reasonable necessary to overcome any exceptional conditions. This requirement will provide additional guidance to the Sign Review Board in deciding modification requests and in imposing appropriate terms and conditions.

In addition to the current provisions pertaining to the Sign Review Board, section 25-81 also provides that the Board

- shall meet once every six weeks, unless there is no business before it;
- must conduct a hearing on a timely filed application at the Board's next scheduled meeting, or such other date that may be set with the consent of the applicant; and
- must issue a written decision, stating reasons for its action and any terms and conditions deemed necessary, within 10 business days from the completion of the hearing.

Current regulations provide that an appeal from the decision of the Sign Review Board can be made to the Board of Appeals within 10 business days after the decision is rendered and that such appeals shall be *de novo* (heard anew) in the same manner as appeals from determinations of administrative officials as provided for, and in accordance with, State law. The proposed text amendment adds the requirement that the Board of Appeals shall hold a hearing on the appeal between 15 and 45 calendar days from the

date of the filing of the appeal, and that the required written decision must be rendered within 10 business days following the completion of the hearing.

Article XI. Signs.

Division 1. General

Sec. 25-456. Legislative findings; purpose and intent. Sets forth findings pertaining to the need for sign regulations and expands and clarifies the purpose and intent of the sign regulations.

Sec. 25-457. Exemptions. Retains, with certain clarification, the current exemptions to the sign regulations. Note that window signs set back 10 feet from the nearest window and window signs within 10 feet from a window but not exceeding 20% of the window area remain exempt from the sign regulations. The proposed text amendment adds the following exemptions:

- *Signs located on public or private recreational facilities on parcels of five acres or more, provided that such signs are not visible to the traveling public.* Such signs include scoreboard signs and can contain off-premises as well as on-premises messages. Due to their location on large pieces of property, such signs do not distract or confuse the traveling public, nor do they contribute to visual clutter or otherwise negatively impact the aesthetics of the community.
- *Any ornamental flag or stationary structure, device, material or thing of a noncommercial decorative nature extending from a wall or pole located on residential property or around parking or pedestrian areas in the interior of non-residential property and not designed to attract the attention of the traveling public.* This exemption is designed to accommodate seasonal and holiday flags and other decorative flags or devices that have become popular on residential property and around parking lots and pedestrian walkways on commercial properties. The location and noncommercial nature of these devices have a low potential of distracting the traveling public, and their decorative nature tend to positively rather than negatively impact the aesthetic environment.
- *Numerals not exceeding eighteen (18) inches in height identifying the address of a dwelling unit or building.* Address numerals are exempted because adequate address identification is essential for police, fire, and other emergency services and help prevent accidents. This exemption covers address numerals only and does not include names of streets, roads, etc.

Sec. 25-458. Construction, design and maintenance of signs. This section sets forth the construction, design and maintenance requirements for permanent signs and for temporary signs.

Sec. 25-459. Measurement of sign area. This section remains unchanged.

Sec. 25-460. Measurement of sign height. This section remains unchanged.

Sec. 25-461. Only permitted signs lawful; signs specifically prohibited. This section confirms that no sign may be erected unless it is specifically permitted and complies with the requirements of the Zoning Ordinance. The section specifically prohibits certain signs. The current prohibition against freestanding signs having more than 20% of the area consisting of a logo or emblem has been deleted, and in its place is the prohibition against any sign placed or erected on property without the permission of the owner. The proposed text amendment retains the remaining existing prohibitions, with certain clarifications, and adds a prohibition against signs with "words, scenes, or graphics of an obscene, indecent, or prurient character which offend public morals or decency."

Sec. 25-462. Sign permits; appeals. This section clarifies the provisions pertaining to sign permits. It requires a sign permit prior to the installation, erection, enlargement, illumination, or substantial alteration (including changing of the sign face) of any permanent or temporary sign, except as otherwise provided. Under other sections of the sign regulations, sign permits are not required for residential occupant identification signs, real estate signs for individual residential lots, real estate signs for new or renovated multi-family developments containing less than 10 dwelling units, and noncommercial temporary signs; all other signs covered by the Zoning Ordinance must have sign permits.

This section sets forth the information required to be furnished as part of the sign permit application, and requires the Chief of Inspection Services to review the application within 15 business days and either approve, deny, or return the application for completion within that time frame. An appeal from the action of the Chief of Inspection Services may be taken to the Sign Review Board within 10 business days of the decision. The section also contains a new provision that makes clear that an erroneously issued permit does not constitute permission to maintain an unlawful sign or constitute a defense to an action to abate an unlawful sign.

Sec. 25-463. Nonconforming signs. The substance of this section remains unchanged.

Sec. 25-464. Removal of signs. This section clarifies and expands upon the provisions pertaining to the removal of signs. It deletes the requirement that the City give 3 days notice before removing any prohibited sign found on public property or right-of-way. Since the signs are installed on City property without the City's permission, there is no

reason why the City should have to wait before removing such illegal signs from its property. Instead, the City may remove the sign without notice, and if the sign is not claimed within 3 business days it shall be deemed to have been abandoned and may be disposed of in the same manner as trash. This is consistent with current City practice. The City may impose fines and initiate other enforcement action in addition to removing such signs.

This section requires that signs pertaining to a time, event, activity, or purpose must be removed within 7 calendar days of the conclusion of the time, event, or purpose to which it pertains. The section also requires removal of abandoned signs within 30 days from the time the activity ceases and/or the business or owner vacates the premises, and provides for the manner of removal.

Sec. 25-465. Signs permitted for residential uses in all zones. This section remains substantially unchanged, with certain clarifications and modifications. Each dwelling unit may have permanent occupant identification signs (including a single sign for a valid home occupation, child care home, or child care center located on a lot under 20,000 square feet) not to exceed a total aggregate of 150 square inches.

The term "identification signs" for residential subdivision is replaced with the term "entrance signs." The current requirement that the City Traffic Engineer must approve the location of such signs is clarified to provide that such review is for the purpose of insuring that the sign does not obstruct the visibility of motorist.

This section continues to provide for temporary on-site real estate signs. The current provision allowing 2 temporary off-site real advertising signs per residential subdivision has been deleted. The current height restrictions for real estate signs remain the same, except for the additional provision that any real estate sign for an individual residential lot or dwelling unit installed within 10 feet of the property line must not exceed 42 inches in height, which is the height allowed for a fence in such areas.

A new provision is added allowing noncommercial temporary signs not exceeding an aggregate of 12 square feet per residential lot, and, if freestanding, not exceeding 5 feet in height or 42 inches in height if installed within 10 feet from the property line. If the signage is used for a temporary yard sale signs, such sign must not exceed 4 square feet in area per sign and may not be displayed longer than 2 days during any calendar month.

Sec. 25-466. Signs permitted for nonresidential uses in residential zones. This section remains substantially unchanged, with certain clarifications and modifications. A provision is added to clarify that signs permitted by the Board of Appeals in connection with the Board's approval of a special exception must be consistent with the provisions of section 25-461 prohibiting certain signs. The proposed text amendment adds provision permitting temporary real estate signs and noncommercial temporary signs.

Sec. 25-467. Signs permitted in O-2 and C-T Zones. This section adds the new C-T Zone to its coverage, but otherwise remains substantially unchanged, except for certain clarifications and modifications. The proposed text amendment deletes the reference to "freestanding identification signs" and substitutes therefor the reference to "permanent freestanding signs." The height, size, and location requirements of such freestanding signs, directional signs, and temporary real estate signs remain the same. A new provision is added allowing noncommercial temporary signs not exceeding an aggregate of 32 square feet per lot, and, if freestanding, not exceeding 8 feet in height. Such signs must not be located within 30 feet of a residential zone and must not be displayed for more than 60 consecutive days and for not more than a total of 60 days within a calendar year.

Sec. 25-468. Signs permitted for uses in C-1, C-2, RPC, I-1, I-2 and I-4 Zones. This section remains substantially unchanged, with certain clarifications and modifications.

The current references to signs "pertaining to each business/tenant" has been replaced with references to signs "allowed for each business/tenant," and the current provisions referencing "building identification" signs and "freestanding identification signs" have been replaced by references to "building" signs and "identification signs," respectively.

The current provisions measure allowable business/tenant signage according to the linear footage of the building frontage. In order to avoid potential confusion as to the meaning of "building frontage" the proposed text amendment modifies the section so as to measure allowable signage by the linear footage of the exterior building wall enclosing the business/tenant space.

The method of measuring the allowable signage area for freestanding signs in the C-2 and RPC Zones has been clarified and a new figure added depicting how the signage area is measured. A new provision also requires that the "design of the sign shall be consistent and harmonious with the sign plan and architecture for the entire building or center." This is consistent with similar requirements of other freestanding signs.

The maximum number, size and height of allowable freestanding signs in the various zones remain the same.

Additional signs with an entry per business/tenant and not readable from the public way continue to be permissible in all of the zones covered by this section. Although it is anticipated that these signs will be continued to be used as directory signs, the additional signs are no longer referred to as "directory" signs and the section does not regulate the specific content of each entry. The maximum height of such sign remains at 10 feet, and a new provision establishing the maximum size as 50 square feet is added.

This section is amended to make clear that the sign regulations do not require gasoline pricing information on automobile filling stations signs, but simply allow such signs as

may be required by State law. As currently provided, any sign or portion thereof that exceeds the minimum requirements of State law shall be counted in the number, size and total aggregate sign area allowed for the business/tenant.

The existing provision permitting changeable copy signs for large indoor shopping malls or arcades is deleted, as there are no such malls or arcades within the City. Changeable copy is only allowed in the zones to announce current and future entertainment productions, due to the changing nature of such use. However, the specific content of such announcement is not regulated.

The current provision for temporary real estate signs remains the same, except for the deletion of the provision that the Sign Review Board approves a renewal permit after the initial 2-year permit period. Experience has demonstrated that requiring approval of the Sign Review Board is cumbersome and no longer warranted. Under the revised section, permit renewals will be issued by the Chief of Inspection Services.

Temporary signs are permitted during the period of construction and around the date of occupancy of a space by a business or tenant. Temporary noncommercial signs are permitted.

The term "subdivision identification signs" is replaced with the term "subdivision entrance signs," and the current requirement that the City Traffic Engineer must approve the location of such signs is clarified to provide that such review is for the purpose of insuring that the sign does not obstruct the visibility of motorists.

Sec. 25-469. Signs permitted for uses in the O-3 and I-3 Zones. This section remains substantially unchanged, with certain clarifications and modifications.

This section continues to permit a total of 250 square feet of signage per record lot in the zones. The term "freestanding identification signs" has been replaced with the term "freestanding sign." Reference to the size of copy for individual tenant names on freestanding sign has been deleted and replaced with a simple cap on the size of letters and graphics.

The current provision for temporary real estate signs remains the same, except for the deletion of the provision that the Sign Review Board approves a renewal permit after the initial 2-year permit period. The proposed text amendment adds a provision allowing an additional real estate sign on lots abutting a limited access highway. This is consistent with provisions in other zones.

Temporary noncommercial signs are permitted.

The term "subdivision identification signs" is replaced with the term "subdivision entrance signs," and the current requirement that the City Traffic Engineer must approve

the location of such signs is clarified to provide that such review is for the purpose of insuring that the sign does not obstruct the visibility of motorists.

Sec. 25-470. Signs permitted for all uses in the TCO-1, TCO-2, TCM-1, TCM-2, and RPR Zones. This section remains substantially unchanged, with certain clarifications and modifications.

The current references to signs "pertaining to each business/tenant has been replaced with references to signs "allowed for each business/tenant," and the current provisions referencing "building identification" signs and "freestanding identification signs" have been replaced by references to "building" signs and "identification signs," respectively.

The current provisions measure allowable business/tenant signage according to the linear footage of the building frontage. In order to avoid potential confusion as to the meaning of "building frontage" the proposed text amendment modifies the section so as to measure allowable signage by the linear footage of the exterior building wall enclosing the business/tenant space.

The current requirement that the City Traffic Engineer must approve the location of freestanding signs is clarified to provide that such review is for the purpose of insuring that the sign does not obstruct the visibility of motorist.

This section is amended to make clear that the sign regulations do not require gasoline pricing information on automobile filling stations signs, but simply allow such signs as may be required by State law.

The existing provision permitting changeable copy signs for large indoor shopping malls or arcades is deleted, as there are no such malls or arcades within the City. Changeable copy is only allowed in the zones to announce current and future entertainment productions, due to the changing nature of such use. However, the specific content of such announcement is not regulated.

The current provision for temporary real estate signs remains the same, except for the deletion of the provision that the Sign Review Board approves a renewal permit after the initial 2-year permit period.

Temporary signs are permitted during the period of construction and around the date of occupancy of a space by a business or tenant. Temporary noncommercial signs are permitted.

Sec. 25-471. Election Signs. The term "election signs" replaces the term "political signs." The specific height and area limitations have been deleted and replaced with a requirement that election signs "must comply with the size, area, height, and location requirements for temporary noncommercial signs" contained in the respective zones. The

requirement that such signs be erected only for a period beginning 30 days prior to the election has been deleted. The requirement that such signs must be removed within a specified period of time following the election to which they pertain remains.

Sec. 25-472. Signs on public property and the public right-of-way. This is a new section. It reiterates the prohibition against signs on public property or within the public right-of-way, except as directed or authorized by the City Manager, and sets forth the criteria for the City Manager's approval of such signs.

Sec. 25-472. Noncommercial speech permitted for all signs. This is a new section. It specifically provides that any sign erected pursuant to the sign regulations in the Zoning Ordinance may contain a noncommercial message, provided that the other criteria and regulations of the sign regulations and Zoning Ordinance are complied with.

Attachments: Text Amendment Application
Errata Sheet



City of Rockville

MEMORANDUM

July 8, 2004

TO: Mayor and Council

FROM: Planning Commission

SUBJECT: Planning Commission Recommendation on Text Amendment Application
TXT2004 - 00210; Revisions to sign provisions of the Zoning Ordinance.

The Planning Commission considered Text Amendment Application TXT2004-00210 at its meeting on Wednesday, June 9, 2004. The Commission was provided with a written staff report and a positive recommendation from the Board of Appeals. (The Board of Appeals recommendation pertained only to the proposed time frames in which the Board must act on appeals from the Sign Review Board.) In addition, Assistant City Attorney Sondra Block was present to explain the proposed revisions and, along with Chief of Inspection Services Linda MacDermid and Chief of Planning Robert Spalding, answered questions from the Commissioners.

The Commission's discussion focused primarily on the provisions pertaining to noncommercial temporary signs in residential zones, and, in particular election/political signs. The Commission discussed some reservations about the size of elections signs and how many can be put on properties. Some concern was expressed that perhaps 12 square feet of signage was too much for residential areas. However, these concerns were allayed when staff observed that 12 square feet was equal to approximately 3 ceiling tiles in the Council chambers. There was also some concern that perhaps 12 square feet of signage is insufficient where there are a large number of candidates and issues on an election ballot.

Commissioner Johnson stated that he was fine with the proposed text amendment and he would recommend approval to the Mayor and Council.

Commissioner Mullican said she had no problem with the text amendment. She noted that there is a lot of substance in it. She did express a desire that the sign provisions allow construction/remodeling signs in residential zones. She also suggested that, if possible, the sign provisions include a matrix showing which signs are permitted in which zones. Commissioner Hilton concurred in that suggestion.

Commissioner Holtz said he had no problem with the text amendment. He said he feels it really tightens up the Sign Ordinance. He would recommend it.

Commissioner Britton expressed a desire to address election/political signs separately from other noncommercial signage. He does not have serious problems with the text amendment, but would like to see the City explore placing some time limit on campaign signs, because of what he sees as unnecessary clutter.

Commissioner Ostell said she had no problems with the text amendment. She said her issues are in terms of the potential of having every resident having signs at all times. She said she would like to have a time restriction on any temporary sign.

Commissioner Holtz moved, seconded by Commissioner Ostell to recommend approval to the Mayor and Council of Text Amendment Application TXT2004-00210. The motion passed on a vote of 5-1 with Commissioner Britton voting nay. Commissioner Britton stated that he is not against the text amendment, but the motion did not have the right caveat in it.



City of Rockville

MEMORANDUM

June 8, 2004

TO: Planning Commission

FROM: Board of Appeals

SUBJECT: Review of Text Amendment Application TXT2004 - 00210; Revisions to sign provisions of the Zoning Ordinance.

The Board of Appeals considered Text Amendment Application TXT2004- 00210 at its meeting on Saturday, June 5, 2004. In particular, it considered the following proposed time frames in which the Board of Appeals is required to act on appeals from the Sign Review Board:

- Conduct a hearing on an appeal from the Sign Review Board not earlier than 15 days from the date that the appeal is filed and not later than 45 days after the appeal was filed
- Issue a written decision within 10 business days from its hearing on any appeal from a decision of the Sign Review Board.

Assistant City Attorney Sondra Harans Block was present to explain the proposed revisions and answer questions.

The members of the Board, in general, had no problem with the proposed time frames. Board members want an opportunity to visit a site before the hearing and the proposed time frames afford sufficient time to do so. The Board observed that the hearing time frame is more of a staff issue, in that staff must have sufficient time to process the appeal and to provide the required notice of the appeal and hearing.

There was some discussion as to whether the Board's practice of not meeting in August would present any difficulty in meeting the proposed hearing time frame. Since the Board establishes a meeting calendar at the beginning of each year, the Board suggested that staff explore the possibility of providing for a hearing at the next scheduled meeting following the filing of an appeal, subject to notice and administrative requirements. Several members noted that the Board has held expedited hearings and special hearings in the past and that an August hearing could be accommodated if necessary.

A motion was made and passed by unanimous vote approving a resolution confirming their approval of the recommended time frames as presented by the Assistant City Attorney, with the understanding that staff would consider the feasibility of providing for a hearing at the next scheduled meeting.

The Board also requested that it receive an annual briefing on the actions taken by the Sign Review Board so that it may familiarize itself with the type of issues that come before the Sign Review Board.

Resolution No. 2004-001

RESOLUTION: To approve the time frames for action by the Board of Appeals in appeals from the decisions of the Sign Review Board as proposed in Text Amendment Application TXT2004-00210

CITY OF ROCKVILLE BOARD OF APPEALS

WHEREAS, at its June 5, 2004 meeting the Board of Appeals reviewed Text Amendment Application TXT2004-00210, and in particular the proposed time frames in which the Board of Appeals is required to act on appeals from the Sign Review Board.

NOW, THEREFORE, BE IT RESOLVED by the Rockville Board of Appeals that

1. The Board does hereby approve the proposed changes to the sign regulations of the Zoning Ordinance, as set forth in Text Amendment Application TXT2004-00210, requiring that the Sign Review Board conduct a hearing on an appeal from the Sign Review Board not earlier than 15 calendar days from the date that the appeal is filed and not later than 45 calendar days after the appeal is filed.
2. The Board does further approve such alternative time frame as may be deemed necessary by staff to process such appeal and provide sufficient notice of a hearing thereon, including but not limited to a requirement that the Board conduct such a hearing at its next scheduled meeting following the filing of an appeal; and
3. The Board approves the proposed changes to the sign regulations of the Zoning Ordinance, as set forth in Text Amendment Application TXT2004-00210, requiring the Board to issue a written decision within 10 business days from its hearing on any appeal from a decision of the Sign Review Board.

I certify that the above is a true and correct copy of a Resolution adopted by the Board of Appeals of the City of Rockville, Maryland, at its meeting of June 5, 2004.



Roy Deitchman, Chair
City of Rockville Board of Appeals



Arthur D. Chambers, AICP
Director of Community Planning and Development